

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

Absent: Liberty

Also Present: Building Official, Byrwa
Planning Consultant, Borden
Council liaison, Berndt
Council member, Peddie

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 Ostrowski, to approve the agenda as published.

Motion passed.

PUBLIC COMMENTS

None

APPROVE MINUTES

Motion by Wayne, second by Ostrowski, that the minutes of a regular Planning Board meeting held on Wednesday, October 25, 2006 be approved as submitted.

Motion passed.

REVIEW REQUEST FROM PATRICK TIMLIN, MANAGER OF MEDICAL VILLAGE, TO OPERATE A EUROPEAN SPA LOCATED AT 31815 SOUTHFIELD ROAD

Before the Planning Board for consideration is a request from Patrick Timlin, managing partner for the ownership of Medical Village, to operate a day spa in one of the existing suites of the office complex located at the southwest corner of Beverly and Southfield Roads. Included with the Board's information packet is a letter of intent from Krystyna's European Spa, site plan of Medical Village, proposed floor plan for Suite 32, and information on the services offered at the day spa.

Present on behalf of this application for an Adult Regulated Use were Patrick Timlin, assistant Erica Skrabut, Real Estate Broker Jeff Scissors, and spa owners Krystyna and Ziggy Ejsmont. The Board viewed a brief power point presentation that provided information on spa services offered by Krystyna's, the current Birmingham spa location, and the floor plan for the spa operation proposed for Suite 32 at Medical Village.

Planning consultant Brian Borden outlined his review letter dated November 21, 2006 with respect to the application. The proposed use of office space as a day spa that offers massage as one of its services places the use under the definition of an Adult Regulated Use. Such uses are

permitted in the 0-1 District only after receiving approval under the Adult Regulated Use standards of Section 22.08.340.

The proposed use is intended to occupy an existing suite within the Medical Village office complex. Krystyna's European Spa is currently located in the City of Birmingham, and the owner seeks to relocate her operation to Beverly Hills. The material submitted indicates that massage service comprises only a small percentage of the services offered by the spa.

Borden has reviewed the application according to the standards set forth in Section 22.08.340 of the Village Zoning Ordinance and based on a visit to the site. Action taken by the Planning Board will be in the form of a recommendation to the Village Council, who has final approval authority for Adult Regulated Uses.

Borden related that the site is located within the 0-1 Office District, in accordance with review standards for the Adult Regulated Use Ordinance. The remainder of the review standards relate to separation and distance. The intent of the ordinance is not to allow for a concentration of Adult Regulated Uses on the basis that they can have an adverse impact. An application to establish any Adult Regulated Use cannot be approved if there is one or more such uses already in existence within 750 feet of the proposed site. Borden did not have that information.

Timlin indicated that there are no other massage operations in Medical Village. A member of the Board was aware that massages are offered at Emile Salon on Southfield Road. It was mentioned that the Beverly Hills Club on Southfield Road also offers massages at their establishment. Byrwa stated that both Emile Salon and the Beverly Hills Club are located in excess of 750 feet from the Medical Village suite in question.

Byrwa related that the Village Manager spoke with the owner of the Beverly Hills Club, who affirmed that their operation has included therapeutic massages for 34 years. Jensen noted that the Beverly Hills Club serves as a therapeutic facility of Beaumont Hospital.

The Ordinance states that the structure of any Adult Regulated Use shall be at least 750 feet from the nearest property line of any public, private or parochial school, library, park, playground, or other recreational facility that admits minors, day-care center, or nursery schools; and at least 750 feet from the nearest property line of any church, convent, monastery, synagogue, or other similar place of worship. Borden related that the site is located approximately 1,200 feet from Beverly Park to the west. Beverly School is 768 feet from Suite 32. These locations meet the separation requirements.

Borden indicated that the Village Council has the authority to waive locational requirements based on the standards in Section 22.08.340(e)(5). Another item to be considered by Council relates to site design. There are no changes to the site proposed with this application.

A standard to be applied by Council when considering approval of an Adult Regulated Use is the potential of that use to cause a nuisance, and/or harm the public health, safety and general welfare. Borden emphasized that the general nature of this proposed use is that of a day spa, which offers common personal services. The inclusion of massage as one of the services

offered places this use under the definition of an Adult Regulated Use. In this instance, a day spa will not result in any of the objectionable conditions noted in the ordinance and, thus, will not cause harm to the public health, safety and general welfare.

Byrwa related the he spoke with the building code official for the City of Birmingham, who was not aware of any problems with the Krystyna's European Spa location in Birmingham.

Bob Walsh of 20655 Smallwood Court observed that the Beverly Hills Athletic Club is adjacent to the Medical Village office complex. It is a private recreation facility that is frequented by minors.

Borden responded that the ordinance does not specify only public recreational facilities in the distance requirement. The Village Council has the authority by ordinance to waive that requirement.

Wayne commented that he visited and toured Krystyna's spa in Birmingham and can endorse it as a professional operation.

Motion by Landsman, second by Wayne, that the Planning Board recommend that Council approve the application from Patrick Timlin for an Adult Regulated Use with respect to massage service being offered by Krystyna's European Spa, tenant of the Medical Village office complex. It is also recommended that Council waive the distance requirement relative to the Beverly Hills Athletic Club.

Roll Call Vote:

Motion passed unanimously.

Borden suggested that the Planning Board may want to revisit the Village's Adult Regulated Use Ordinance. It appears that there may be other businesses in the Village that provide therapeutic massage service without the necessary approval. He noted that it is understandable not to consider a spa as an Adult Regulated Use.

REVIEW AERIAL MAPS FOR DETERMINING SIDE YARD SETBACKS TO BE PROVIDED BY LSL

Borden distributed copies of a color-coded map designating nonconforming lots in the Village, which are primarily in the northeast section. At its last meeting, the Board reviewed aerial photos obtained from Oakland County of four key neighborhood locations that contain a high concentration of nonconforming lots. Within the last month, Borden transferred information from the nonconforming lots map onto the aerial photos so that the Board could view existing conditions in more detail. He selected small clusters of lots on different streets and marked setbacks existing in these neighborhoods. The emphasis was on side yard setbacks, noting that there were blocks in some sections where front yard setbacks did not meet ordinance requirements.

Borden observed that many of the blocks comply with front yard setbacks in R-2 and R-3 districts. He focused on building separation and side yard setbacks. A majority of the lots on

many of the streets in the four neighborhoods, particularly the Rutlands, are nonconforming. Clearly, the schedule of regulations and existing conditions do not mesh. Nonconforming side yard setbacks vary from block to block, which makes the task more difficult for the reason that there is not a consistent pattern throughout the entire area. This will have to be taken into consideration if thought is given to proposing rezoning, establishment of a new district, or modification of an existing district.

It was noted that the Village building code requires that, for emergency and fire purposes, there must be at least 10' between buildings.

The four aerial maps were displayed and examined by members of the Planning Board and public.

Map #1 covered the Artesian Heights area including the Rutlands. Almost all of the lots were nonconforming primarily due to lot area. In response to an inquiry on how to render the lots more conforming, Borden suggested that they either have to be rezoned to an amended current designation or a new designation. He thought that this neighborhood would fit the R-3 designation with a modification to allow side yard setbacks of 10' on one side and 5' on the other side for a total of 15' of side yard setback. There would probably be a few lots in the area that would remain nonconforming. Consideration would have to be given to the impact of modifying the R-3 district in other areas; a solution may be to create a R-3A zoning district for this portion of the Village.

Map #2 includes the corner of Beverly and Sheridan. Borden commented that this map reflects the nonconforming lots map prepared by the Village. Board members expressed concern with the possibility of lot splits if the zoning designation were changed. Jensen noted that the new lot must not only meet the ordinance but must meet the averages of surrounding lots. Borden mentioned that an overlay district could be enacted that requires another category of standards to be met if there is a request to create a new lot. It was emphasized that the intent is to maintain the character of the neighborhoods.

It was observed that there will still be nonconforming lots if a new R-3A standard were applied in this neighborhood because there are 50' wide lots in the area. The goal is to reduce nonconformity and not eliminate it. Many of the homes in this area are of similar construction. Landsman stated that property owners in this area come before the ZBA to build rear additions that render their home more livable by modern standards.

Berndt referred to the large aerial map of the Village on the wall and pointed out that the only area on the east side at risk for lot splits from a practical financial standpoint is the southeast corner of the Village. Criteria for new lot designations and lot splits would address that issue. Borden suggested that another layer of protection would be to enact a principal separation requirement, which is common.

Map #3 encompasses the 14 Mile and Greenfield Road area. This section of the Village has a high concentration of the smallest lots with a lot area of less than 6,000 SF and less than 60' frontage. It was suggested that this area should be zoned R-3 or a new designation.

Map #4 includes lots bordered by 14 Mile Road, Pierce and Bates. The Board viewed the concentrations of nonconforming lots in this area. Lots are larger going further west. Lot size and setback sizes were analyzed.

Borowski suggested that there is a need to allow improvements to the housing stock with some restrictions. It is a complex issue. It was mentioned that the Planning Board will present this matrix to Council with visual aids at some point.

Berndt stated that, at its last meeting, Council authorized the Planning Board to look at incorporating lot coverage standards into the ordinance. This request took place as part of Council's consideration of amended language proposed by the Planning Board for Chapter 22 of the Municipal Code, Accessory Structures.

There followed a discussion on whether lot coverage regulations are needed along with the Village's existing setback requirements. Berndt suggested that, based on his review of lot size, room size, and square footage of lots, the reality is that constructing a home within the buildable envelope would result in maintaining a 30%-35% lot coverage area. Tillman remarked that the question is whether to deal with setbacks, lot coverage or both.

Berndt commented that there is a large area of the Village that has irregular lots. Those homeowners may need to come to the ZBA for a variance for setbacks while remaining within the lot coverage standard for the community. Jensen cautioned that lot coverage is a further way to restrict homeowners on the east side from what they can do to improve their homes. Audience members Lee Peddie and Bob Walsh added to the discussion of lot coverage standards.

Between now and the next meeting scheduled for December 13, Borden will scale out more lots and attempt to make the designations on the aerial maps more visible. He will present information to the Board on how to discourage the splitting of future lots for new building sites. Borden was also asked to provide the Board with a proposal for zoning district designations for the four areas reviewed tonight.

Jensen concluded that the task is to create a level of ordinance changes that encourage renovation while preserving the character of these neighborhoods and to discourage lot splitting for the purpose of future building sites.

PLANNING BOARD COMMENTS

Walter commented that he liked the idea presented tonight to require side yard setbacks at a total of 15' with a minimum of 5' on one side in a new zoning district. He also thought that adopting standards for new construction would appease those who may be concerned with the possibility of future lot splits.

Borden would like some feedback and observations from Board members as to what their concerns might be as residents with respect to the idea of creating new zoning districts to address the issue of nonconforming lots. This input would assist the Board with formulating a response to concerns that may be raised by members of the public.

Wayne voiced the thought that there are people who may be hesitant to hire an architect or builder and submit plans for approval if there is the potential that a building permit would be denied because a variance from the ordinance is needed. He thinks that the Village is headed in a direction of attempting to reduce the number of nonconforming lots in the community.

Tillman thought that the Planning Board has made progress on arriving at a method to reduce nonconforming lots in the Village and to encourage renovation of homes to make Beverly Hills a better place.

Landsman supported the focus of reducing nonconformity as the purpose of this exercise. She commented on issue of lot splits.

Jensen reported on his presentation at the last Council meeting on the Planning Board's review of accessory buildings. A member of Council questioned whether the chart entitled "draft summary of accessory structures and garage regulations for Beverly Hills and other communities" was representative of municipalities in this area. He wanted to know how Bingham Farms, Franklin, and Royal Oak are handling these kinds of issues. Borden will provide this information.

Another topic that came up was a question of open space and maximum lot coverage and whether the Planning Board has looked at this issue. Jensen stated that that front, side, and rear yard setback requirements address lot coverage. To further restrict lot coverage has not been a topic of Planning Board discussion to date.

Borden reiterated that Beverly Hills is the only community he works with that does not have residential lot coverage requirements. In response to an inquiry from Freedman, Borden stated that communities that have lot coverage requirements also have setbacks. Lot coverage requirements further restrict building areas in some cases. The reason that the Board has not studied lot coverage requirements is because it is out of the scope of the nonconforming lot issue. The accessory building study is a result of trying to address potential concerns about oversized garages.

Berndt recapped that Council voiced the opinion at its last meeting that the Planning Board was doing a good job of reviewing the ordinance regulating accessory buildings. Council concurred that the Board should continue its work on the neighborhood study and start thinking about lot coverage requirements. These items will be discussed further at the joint meeting of the Planning Board and Council scheduled for February 14, 2007.

The next Planning Board meeting has been rescheduled for Wednesday, December 13 due to the holidays. The Planning Board will hold a public hearing on the Master Plan on Wednesday, January 24, 2007. Whether Council decides to hold a joint public hearing with the Planning Board on the Master Plan will be a topic of discussion at the next Council meeting.

PLANNING CONSULTANT COMMENTS

Borden is drafting a memo to Council regarding a joint public hearing with the Planning Board on the Master Plan.

BUILDING OFFICIAL COMMENTS

Byrwa recapped Council’s recent discussion on changes necessitated by Public Act 110, the Zoning Enabling Act. Council took action to refer to the Planning Board the November 16, 2006 memo from Attorney Tom Ryan regarding Zoning Ordinance changes necessitated by the Zoning Enabling Act and to direct the Board to make recommendations on ordinance amendments required to be enacted by July 1, 2007 as its first priority. This will be a topic of discussion for the joint meeting in February. The Planning Board was requested to discuss the requirement for a Planning Board member to sit on the Zoning Board of Appeals. The Planning Board was authorized to begin discussion on other issues addressed in the memo as a lower priority.

Jensen asked if a member of the Planning Board would be willing to volunteer to serve on the Zoning Board of Appeals. Borowski agreed to sit on the Zoning Board on the basis that it would be a one-year appointment with Planning Board members rotating the seat on the ZBA.

PUBLIC COMMENTS

None

Motion by Freedman, second by Walter, to adjourn the meeting at 9:32 p.m.

Motion passed.

David Jensen, Chair
Planning Board

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary