

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

Absent: None

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 Tillman, second by Walter, to approve the agenda as published.

Motion passed (9 – 0).

PUBLIC COMMENTS

None

APPROVE MINUTES OF REGULAR PLANNING BOARD MEETING HELD ON WEDNESDAY, NOVEMBER 29, 2006

A correction was made to indicate that Tillman was present at the meeting.

Motion by Walter, second by Borowski, that the minutes of a regular Planning Board meeting held on Wednesday, November 29, 2006 be approved as amended.

Motion passed (9 – 0).

REVIEW ADDITIONAL INFORMATION ON NONCONFORMING LOTS AND SETBACKS AND DISCUSS RECOMMENDATION TO COUNCIL

Planning consultant Brian Borden referred to his letter of December 6, 2006 regarding the Board's ongoing review and discussion of nonconforming lots and dwellings in the northeast section of the Village. At the last meeting, there was discussion of potential dimensional requirements based upon analysis of specific neighborhoods. A letter includes a table indicating standards that could be applied in terms of lot width, lot area, and side yards to the four neighborhood locations that contain a high concentration of nonconforming lots.

Borden remarked that there were distinct characteristics evident on the four aerial photos reviewed at the last meeting. The only significant difference was on Map #3 where side yard setbacks were slightly less than on the other maps. In general, if dimensional standards were 60 ft. lot width and 7,500 square foot lot area with the side setbacks as indicated on the table, quite of a bit of nonconformity identified in the four neighborhoods would be decreased.

At the Board's request, Borden will review available data and provide more accurate figures on the percentage of nonconformity that will be decreased in an attempt to provide a clear idea of the impact of a new zoning standard.

Jensen referred to comments made at the previous meeting indicating that the task is to create a level of ordinance changes that encourages renovation while preserving the character of those neighborhoods and to discourage lot splitting for the purpose of future building sites. Those are the issues that have to be explored and addressed. If that can be accomplished, reducing nonconformity from 75% to 30% would be considered a big improvement.

In conjunction with the topic of considering ordinance changes to reduce nonconformity, there has been discussion on how to discourage inappropriate lot splits or creation of new buildable lots. There was a concern that reducing lot width requirements in the northeast section of the Village may result in lot splits.

Borden proposed that a tool to help prevent this may be to establish an overlay district for the affected single-family districts. The overlay would require dimensional requirements for lots similar to R-1 or R-1A for the creation of any lots through either land division or subdivision. It would, however, allow for reconfiguration of existing lots in accordance with the minimum requirements of the district. As an example of this, Borden distributed an excerpt from the Grosse Ile zoning ordinance and explained how its overlay district serves as a growth management tool for the community.

The Board discussed the concept of creating an overlay district that is more restrictive and would discourage accumulating and splitting of lots.

Freedman commented that a goal of this study of nonconforming lots is to maintain the character of the community while encouraging redevelopment and improvements to the housing stock. She noted that there is a large concentration of senior citizens living on the east side who may have limited resources that prevent them from renovating their homes. She suggested that we owe it to all the residents to be concerned about allowing big foot housing in a neighborhood.

Jensen related that the courts determine character by the lot width, setbacks and area of property within 500 ft. of a proposed project. The court cannot quantify aesthetics. He views the Grosse Ile ordinance as punitive. Jensen maintained that a new house can spur revitalization in a neighborhood.

Byrwa stated that there is a clause in the ordinance that states, the Village Council shall not approve a division of land resulting in a parcel that has a land area of less than the average land area of all parcels of a like zoning classification located within 500 feet of the proposed division.

Borden will review the land division requirements of the Village on the basis that there may be enough existing protection to render the idea of an overlay district unnecessary. It appears that the ordinance in place bases the response to a request for a lot split on the surrounding area.

Board members and people in the audience discussed the issue of nonconforming lots in the northeast section of the Village and the direction under consideration to encourage reasonable improvements to the housing stock without promoting lot splits and reduction in property size. Preserving the existing character of the neighborhoods is key.

Freedman questioned whether there is evidence showing that reducing nonconformity encourages redevelopment and increases the value of property. Ostrowski questioned whether reducing the problem of nonconforming lots may inadvertently prove to be short-sighted.

Berndt observed that the value of an area increases when there is rationale renovation of older housing. Borden added that reducing nonconformity promotes resale of property.

Jensen concluded that the exercise of reducing nonconforming lots on the east side of the Village will be a topic of discussion at the joint meeting with Council in February, at which time the Board will receive feedback and direction from the Village Council.

Borden will do additional comparisons and provide more information on lot width and reducing nonconformity.

DISCUSS ACCESSORY STRUCTURE ORDINANCE AMENDMENTS

Borden redistributed a table entitled “Draft summary of accessory structure and garage regulations for Beverly Hills and other communities”. The table was updated to reflect Planning Board discussion and to incorporate regulations for three additional communities as requested by Council. Borden reviewed the regulations for Franklin, Bingham Farms and Royal Oak.

Review of draft ordinance amendments relative to accessory buildings, structures and uses in residential zone districts will be a topic of discussion at the joint meeting with Council.

REVIEW INFORMATION FROM LSL ON STATE ZONING ENABLING ACT AND PROVIDE RECOMMENDATION FOR VILLAGE COMPLIANCE TO COUNCIL

Borden reviewed that the Michigan Legislature repealed the prior separate Zoning Enabling Acts for townships, cities, villages and counties and combined them into one Zoning Act for the State of Michigan, which became effective on July 1, 2006. Village staff has already begun to follow the new requirements, but the Ordinance itself must be updated to reflect the changes.

Borden provided a review letter dated December 6, 2006 that summarizes changes needed to the Village Zoning Ordinance as well as items that should receive further review by the Village. He outlined the changes required by the Michigan Zoning Enabling Act (MZEA):

- Update all references to Act 207 of Public Acts of 1921 to reflect Michigan Zoning Enabling Act, Public Act 110 of 2006.
- Review current ordinance standards to ensure consistency with MZEA requirements for residential care uses.

- The MZEA changed public hearing notice requirements to be the same for all types of hearings. The Village may wish to establish one public hearing section within the Ordinance or update all relevant sections as needed.
- MZEA describes necessary processes and petitions that need to be filed. The current ordinance section may require minor changes as a result.
- MZEA requires that one member of the ZBA be a Planning Board member and also opens the door for a councilperson to sit on the ZBA.
- MZEA allows for planning and development tools such as PUD, zoning agreements and purchase of development rights. The Village may wish to consider incorporating these tools into the ordinance.

It was noted that there is a volunteer from the Planning Board who has applied for one of the three vacancies on the Zoning Board of Appeals.

The MZEA opens the door for a Council person to sit on the Zoning Board of Appeals. Borden indicated that this is optional and not a requirement. Ron Berndt expressed the view that a Council person sitting on the ZBA runs contrary to the body of Michigan case law until 2006, which established that the presence of anyone with appointive authority over the ZBA speaking on behalf of an applicant was considered to impose duress upon the Zoning Board. He thought that there should be a separation between a body with quasi-judicial authority and a legislative body. Lee Peddie was in agreement.

Jensen suggested that these ordinance changes should be a topic of discussion at the February joint meeting with Council.

It was brought to the attention of the Board that Council made a motion at its November 21, 2006 meeting directing the Planning Board to review and make recommendations on ordinance amendments necessary to comply with Public Act 110. A memo from Attorney Tom Ryan on the topic was referred to the Planning Board. This material will be provided in the next Planning Board packet.

Borden commented that he has done research on the Zoning Ordinance sections to be amended and will proceed based on the direction from Council and Village administration. Drafting ordinance amendments is commonly a joint effort between the planning consultant and the Village Attorney. Jensen asked building official Byrwa to obtain a cost estimate for this work from LSL Planning if required.

DISCUSS TOPICS FOR FEBRUARY 14, 2007 JOINT PLANNING BOARD AND COUNCIL MEETING

There was agreement that tonight's agenda items #5, #6, and #7 should be primary topics of discussion at the joint meeting with Council in addition to comments regarding the Planning Board public hearing on the Master Plan:

- Review information on nonconforming lots and setbacks and general discussion of the northeast section of the Village.
- Discuss accessory structure ordinance amendments.
- Review information from LSL on State Zoning Enabling Act.
- Comment on the Planning Board public hearing on the Master Plan

At Byrwa's recommendation, an item will be added to the agenda to review outdated ordinances. Byrwa will compile a list of ordinances that he thinks need to be brought up to date. Borden was asked to look at those items and prepare a cost estimate for drafting updated ordinance language.

- Review outdated ordinances.

Ostrowski suggested that maximum lot coverage be a topic of discussion at the joint meeting. He prepared material on this topic, which will be copied and distributed for discussion at the February 14, 2007 meeting with Council.

- Discuss maximum lot coverage

There followed comments and questions regarding the Master Plan presentation and public hearing scheduled for the regular Planning Board meeting of Wednesday, January 24, 2007. The Board was advised that Council has decided to schedule another public hearing on the Master Plan at a regular Council meeting date following the Planning Board hearing. The Council public hearing will be televised live and replayed on the municipal channel. Notification of the Planning Board public hearing was discussed.

PLANNING BOARD COMMENTS

Walter commented on the nonconforming lots issue and suggested that the Board consider an overlay district to prevent undesirable lot splits. He thought that the issue of combining lots would be a lot coverage matter.

Liberty asked if there are rules about destroying the character of a neighborhood in terms of housing style. It was clarified that people are bound by setback and height limitations but not by aesthetic considerations.

Freedman thanked planning consultant Brian Borden for doing a good job for the Planning Board. She thanked Board members for their open-minded discussion of topics this evening.

Wayne indicated a concern that developers working in the Village be adequately bonded in order to perform to certain standards.

Tillman commented that this will be her second Village Master Plan approval process. She suggested that the Planning Board listen to comments expressed at the public hearing but reserve discussion on issues raised until the next meeting.

Ostrowski commented on what he thought was a good exchange of ideas on the topics raised at today's meeting.

Landsman commented that it is important that the Planning Board focus on reducing nonconformity in the northeast section of the Village.

Jensen stated that he has enjoyed another year of serving on the Planning Board, and he appreciated the level of interest exhibited by members. He wished everyone a happy holiday.

PLANNING CONSULTANT COMMENTS

None

BUILDING OFFICIAL COMMENTS

None

PUBLIC COMMENTS

Bob Walsh of 20655 Smallwood Court expressed the view that the overlay district that is part of the Grosse Ile zoning ordinance is punitive. He did not think that an individual who applies for a lot split in good faith should be penalized if they meet the average land area requirements.

Motion by Borowski, second by Tillman, to adjourn the meeting at 9:26 p.m.

Motion passed.

David Jensen, Chair
Planning Board

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary