

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

Absent: Stearn

Also Present: Village Building Official, Byrwa
Council Liaison, Walsh

Chairperson Schafer presided and called the meeting to order at 7:35 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

APPROVE MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING HELD ON MONDAY, FEBRUARY 13, 2006

Motion by Oen, second by Berndt, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, February 13, 2006 be approved as submitted.

Motion passed (8 – 0).

CASE NO. 1163

Petitioner and Property: Ron and Marcy Grant
16313 Birwood
Lot 3, Williamsburg Row
TH24-01-203-012

Petition: Petitioner requests a deviation from the minimum 5' side yard open space to 1.5' for a detached garage.

Byrwa stated that this property is located on Birwood where a row of houses were built on similar sized lots in 1976. The homes are two-story colonials. The property owners were before the Zoning Board of Appeals on June 14, 2004, at which time they received variance from the side yard setback in order to build an addition to continue with the existing line of the house. The petitioners also requested to build a garage two feet into the rear yard easement. The Board granted a variance to build the two-story addition, but tabled the variance to build on the easement. Byrwa indicated that there is 17 ft. of easement at the rear of this property.

The petitioner has submitted a plan that moves the garage forward of the easement. A variance is being requested to build the detached garage 1.5' from the west lot line in lieu of the required minimum 5' side yard setback with the hardship being the narrow lot and the fact that the homeowners cannot build on the easement.

Marcy Grant related that they have consulted an attorney to research obtaining the right to build on the easement. They were informed by their attorney that it would be a lengthy and costly process with no guaranteed outcome. This is the reason for pursuing the current plan to build a detached garage. The Grants talked to a landscaper about providing stones for optimal drainage on the site. Grant stated that they have talked to all of their neighbors about the garage plans and there has been no opposition.

Grant stated that they want to be able to use the garage for two cars. It would be difficult to access the east stall of the garage without granting the variance to allow a 20' x 23.5' garage that is 1.5' from the lot line. Ron Grant added that they learned that the 17' easement is comprised of two different easements, a utility easement and a drainage easement.

Comments and questions from Board members were addressed by the petitioners.

Berndt commented that he understands the difficulty with the turning radius into the garage due to the narrow lot. He was troubled by the fact that the petitioners knew about the easement and turning radius issues at the time the addition was built. He questioned whether the architect could have reduced the size of the addition by 3.5' to allow room for the turning radius.

Oen viewed this as a self-created hardship for the reason that the petitioners were aware of the difficulties when they were before the Board previously requesting a variance to build an addition.

Marcy Grant stated that they anticipated obtaining the right to build on 5 ft. of the easement when they went forward with building the addition. They did not think it was unreasonable to use five of the 17' easement in their rear yard. She added that their neighbors are grateful for the work they have done to improve their site and the property values of the neighborhood.

Brady views the hardship in terms of a non-conforming narrow lot and the fact that the property owners have 17' of space in the rear yard on which they cannot build.

Berndt recalled that discussion at the time the previous case was considered focused on the fact that the Zoning Board of Appeals granted a variance that allowed these non-conforming houses to be built on narrow lots. The Board granted a variance that allowed the Grants to build an addition. There is no practical way that a two-car garage can be constructed and function on this lot without a variance. While Berndt recognizes the hardship involved, he is having trouble with the self-created hardship issue because the garage placement could have been considered in planning for the addition.

In answer to an inquiry from Verdi-Hus, it was clarified that the garage cannot be attached to the house because there is not adequate space to make an L-shaped turn into the garage.

Byrwa expressed a concern with drainage on the lot noting that there is considerable water ponding in the rear yard.

Schafer stated that he will have trouble voting in favor of this variance request unless he is convinced that it is unlikely that the property owner would be able to gain rights to build on the 10 foot easement. Information to this effect has not been presented to the Board. In order to grant the variance, the Board needs a reason to change the law in the petitioner's favor that is unique to the land. If he knew that the homeowner cannot build on the easement, he would know that the building envelope is 17' from the property line on the south side. The Board could then address whether there is a physical way to locate the garage. Absent that information, he cannot vote in

favor of this case. Schafer would like to see an opinion letter from the Grants' attorney with a copy of the easement.

The applicant was informed that five affirmative votes are needed to grant a variance. They are within their rights to table their case until the full Board is present or until they are able to submit further information to persuade those who may not be in favor of the petition at this point.

Berndt reiterated that he would like to approve a variance that would allow a garage to be built on the property, but he is having problems with the law. Oen concurred and thought that the easement rights should be pursued. It was suggested that the Grants obtain a statement from whomever has rights to the easement indicating whether it is active or vacated and whether or not they are allowed to build on it.

Fahlen suggested that the petitioner speak with Township Clerk Sharon Tischler for information about the ownership of the easements. He questioned whether it is possible that the easement has been abandoned. There was interest on the Board relative to who owns the easements and their status.

The Grants asked that their case be tabled until the next meeting.

CASE NO. 1164

Petitioner/Property: Johnny Karmo.
Market Fresh
31201 Southfield Road
Acreage, TH-24-02-480-013

Petition: Petitioner requests permission to display the following:

1. Bedding plants from 4-1-06 through 9-30-06
2. Pumpkins from 10-1-06 through 10-31-06
3. Christmas trees from 11-01-06 through 12-31-06
4. Porch displays from 3-1-06 through 10-31-06

Byrwa stated that Johnny Karmo, new owner of Market Fresh (formerly Vic's Market), is requesting a variance from the ordinance in order to display seasonal items outside as has been done for a number of years. Board members were concerned about the impact of the displays on the parking lot and traffic flow. Previous approvals were contingent on the understanding that the petitioner would minimize the intrusion into traffic patterns to the extent possible.

Byrwa stated that the Village has required that the handicapped parking spaces remain. The store owner has been allowed to use those spaces on the south side of the building for outdoor displays.

Johnny Karmo stated that he plans to install permanent awnings on the south side of the building and increase the size of the sidewalk to 10 feet. The intent is to display items up against the building and not to eliminate any parking spaces. Plans for the new awnings on the building have

been presented to the building department. Tents will not be used for the outdoor displays. The awnings will eliminate snow and ice on the sidewalks and will better serve their customers. It is a solid grey awning with a frame. Karmo commented on the upgrades planned for the store and noted that he will have people outside maintaining the displays.

Byrwa stated that he will review the Market Fresh plans with Manager Spallasso and work out the details. If changes to the site are minor and no parking spaces are eliminated, the plan can be approved without going through the site plan review process.

Decision: Motion by Berndt, second by Oen, to grant a variance to allow outdoor displays at Market Fresh on the dates requested with the condition that they be limited to sidewalk areas and not encroach on any parking spaces or traffic aisles.

Roll Call Vote:
Motion passed (8 – 0).

ZONING BOARD COMMENTS

Schafer stated that Board members have received a clean copy of the draft Zoning Board of Appeals handbook along with a marked up copy that shows where text has been added or deleted following discussions with Village Attorney Ryan. Schafer asked that consideration of the handbook for approval be an agenda item for the next meeting.

Brady questioned the status of the new building erected on Southfield Road near McDonalds. Byrwa responded that the building department has issued permits for the building owned by Mr. Rosenthal. The western half of the building has been leased by Flagstar Bank. Byrwa does not believe that a tenant has been located for the other half of the building. He mentioned that there have been parking disputes among some Southfield Road business owners.

BUILDING OFFICIAL COMMENTS

Byrwa reported that Detroit Country Day School will be coming before the Zoning Board in April to request temporary signs on their campus to publicize an art fair to be held at the end of April.

Motion by Berndt, second by Napier, to adjourn the meeting at 8:31 p.m.

Motion passed (8 – 0).

Todd Schafer, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary