

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

Absent: None

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

Chairperson Schafer presided and called the meeting to order at 7:34 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road. Schafer welcomed newly appointed member Tim Mercer to the ZBA.

Schafer stated that an affirmative vote of five of the nine Board members present is needed to grant a dimensional variance. Six of the nine members would need to vote in favor of granting a use variance.

APPROVE MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING HELD ON MONDAY, JUNE 12, 2006

Motion by Berndt, second by Oen, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, June 12, 2006 be approved as submitted.

Motion passed (9 – 0).

CASE NO. 1168

Petitioner & Property: David Hinman
17501 Dunblaine
Lots 229, 230 of D.J. Healy's Golfhurst
TH24-01-152-002

Petition: Petitioner requests a deviation from the minimum 12.5' side yard open space to 6.8' open space for an attached garage.

Byrwa related that the house was built in 1954 prior to the adoption of the Village Zoning Ordinance. The petitioner is proposing to build an approximately 13' x 23' addition onto the garage that would extend the existing nonconforming side yard setback of 6'8" in lieu of the required 12'6". The addition will be constructed 44' back from the front lot line. Byrwa displayed photographs of the property pointing out the proposed location of the addition.

Schafer stated that, in connection with a dimensional variance, a petitioner must demonstrate to the majority of Board members that:

- Enforcement of the provisions of the Zoning Ordinance creates practical difficulties that would unreasonable prevent the petitioner from using their property in a manner otherwise permitted in the zoning district.
- No option exists that does not require a greater variance or that options requiring a lesser variance, or no variance, would result in unnecessary hardship.

- The variance requested would be reasonable and appropriate relative to the rest of the community to expect to use the property in the manner requested. Thus a variance would do justice to the petitioner.
- A variance cannot be contrary to the public interest and would in no way compromise the public health, safety and general welfare.
- The problem is not self-created by the petitioner and there is no issue of “coming to the nuisance”.

Board members will consider these items in connection with granting a variance request. It was the interpretation of the Building Official that there is no variance required in terms of the percentage of garage to living space.

Questions from Board members were addressed by the petitioner. Hinman remarked that he has been a resident for over 25 years. The plan is to extend the garage forward in order to store vehicles in the garage and to provide space for a bedroom and bath above the garage. The addition will be built over the current driveway and will not infringe on any greenspace or require the removal of trees. It will follow the existing garage line. The structure will be constructed with materials that conform to those of the current home. The existing fence will remain in its current position. Construction plans for the addition were outlined by Hinman. The petitioner stated that he believes that the home was originally constructed in 1943. The house was not centered on the property, which created unequal side yards.

The Zoning Board is in receipt of a letter dated July 4, 2006 from Alan and Lena Nealley of 17453 Dunblaine indicating that they have reviewed the planned renovations of their neighbor and have no objections to the project. They state that the addition will be no closer to the property line than the current structure. Further, the addition will be in keeping with the architecture of the neighborhood and add value to the surrounding property.

Schafer commented that construction of the proposed addition would not be an issue if the house had been sited in the center of the property.

Berndt stated that the petitioner has not suggested changing anything that will impact the current side yard, and the view from the street will not substantially change. This request seems to meet the Board’s criteria for a minimal variance to add a needed amount of living space to bring the house up to contemporary standards.

Decision: Motion by Berndt, second by Verdi-Hus, that the variance be approved as requested based on his comments in the previous paragraph and considering the placement of the house on the lot.

Roll Call Vote:

Motion passed (9 – 0).

CASE NO. 1169

Petitioner & Property: Starbucks
31213 Southfield Road
Acreage, TH24-02-480-013

Petition: Petitioner requests permission for six outdoor tables and 12 chairs on the east porch in front of Starbucks until November 1, 2006.

Zoning Ordinance Section 22.22.020 Permitted Principal Uses (d) states that the uses permitted herein shall be conducted without the outside sale or display of products, goods or services or the outside storage of goods, material or equipment. Byrwa stated that the use of outside tables in front of the Starbucks store requires a variance from the Zoning Board of Appeals. He noted that Market Fresh, formerly Vic's Market, requests an annual variance for outdoor displays. Byrwa has checked with the Public Safety Department, and they have had no complaints regarding the use of outdoor tables at this site.

Schafer commented that this is a use variance. The ordinance states that use variances are only to be granted in the event that two-thirds of the Board finds:

- That a prohibited use in the zoning district that would be legal in another zoning district is reasonable and appropriate to the property given the adjacency of similar or complementary uses and will not alter the essential character of the locality.
- That the property cannot reasonably be used in the manner for which it is zoned and restriction of the property to exclusively permitted uses would render the property essentially worthless or would otherwise impose an undue hardship
- That a variance would not be contrary to the public interest and would in no way compromise the public health, safety and general welfare.
- That the situation is unique to the property in question.

Byrwa displayed two photographs of the tables situated in front of Starbucks. He noted that an aisle has been maintained for people walking along the sidewalk.

Store manager Kelly Shonk apologized for not requesting a variance, indicating that Starbucks management was not aware of a requirement to receive a variance for the use of outdoor tables. She explained that customers purchase food or drink inside and may sit outside at the tables. Employees have been instructed to leave an aisleway for the use of pedestrians walking by.

In answer to an inquiry, Shonk indicated that people do smoke outdoors. Verdi-Hus suggested that Starbucks consider the outdoor seating as a non-smoking area. Schafer proposed that the outdoor tables could be arranged to create a smoking and non-smoking section.

The Zoning Board of Appeals is in receipt of a letter dated June 22, 2006 from Michael Laurencelle on behalf of The Corners shopping center indicating that he has no objection to the petitioner's request.

Schafer commented that Starbucks does not engage in sale or display of products. The only storage of material would be tables and umbrellas. Questions from Board members were addressed by the store manager.

Decision: Motion by Berndt, second by Stearn, to approve the variance given that this activity is in keeping with the spirit if not the letter of the ordinance and is characteristic of this type of business, which is in line with the usage that Council has designated for this zoned district.

Roll Call Vote:
Motion passed (9 – 0).

CASE NO. 1170

Petitioner & Property: Independent Bank
32800 Southfield Road
Lots 55-66 of D. J. Healy’s Golfhurst subdivision
TH24-01-101-001

Petition: Petitioner requests one sign on Southfield Road (remove existing sign at corner of Southfield & 14 Mile Road) and one sign on 14 Mile Road. Each sign will be 16 square feet.

The Village Zoning Ordinance Section 22.32.110 (3b) Signs Permitted in O-1 and PP Districts states: No more than one ground sign, or group identification sign, not to exceed 32 square feet in area and a maximum height of six feet shall be permitted per premises.

Byrwa noted that Independent Bank is located on a corner that has frontage on two major roads. He displayed photographs of the site and pointed out the existing ground sign located at the corner of Southfield and 14 Mile Roads. The proposal is to eliminate the existing sign and erect a smaller sign on each major street that will be visible from both roads. Byrwa indicated the proposed location of the two signs. A photograph of the 32” x 72” signs was displayed. Both signs are within the total area allowed by the sign ordinance for an office zoned district.

Schafer stated that the Board will approach this as a use variance case, which requires six affirmative votes.

Jack Vos of Universal Sign Company was present on behalf of Independent Bank requesting new signage. He explained that the site and existing sign orientation has been challenging for the bank because customers cannot see that it is Independent Bank as they approach from the east or west on 14 Mile Road until they drive past. The trees south of the sign block its view from motorists approaching from Southfield Road. The sign company has considered how to solve the identity issue while working within the code. The existing sign at 41 sq. ft. is not in compliance with the Zoning Ordinance. Their staff worked within the ordinance requirement of 32 sq. ft. of sign area and proposed two 16 sq. ft. signs at a 52” height that would achieve visibility for the signs on both major streets.

Vos remarked that this is a unique site in Beverly Hills with limited area and setbacks close to 14 Mile Road. The signs will be 150-170 feet apart and will not create clutter on the site. The bank is trying to solve a problem with people not being able to locate the building easily.

Questions from Board members were answered by Vos. The signs will be internally illuminated and will be placed on a timer in accordance with Ordinance restrictions. Vos specified where the sign on 14 Mile Road would be located with respect to the tree on the side of the building. He proposed that the 14 Mile Road sign be lowered to 42” to maintain a clear line of sight.

Schafer remarked that the petitioner’s request probably benefits public safety. He agrees with the petitioner that this request is unique to this property and something that is not likely to reoccur in the Village. A motion to approve this variance should be structured so that it is limited to the sign area shown on the renderings submitted and contingent on the 42” height of the sign on 14 Mile Road.

Verdi-Hus expressed the view that the proposed signage would be more attractive than the existing sign on the site. Oen maintained that the Village would be losing mass rather than gaining signage.

Decision: Motion by Stearn, second by Needham, to grant the variance as requested by Independent Bank for reasons that enforcement of the ordinance creates exceptional practical difficulties in that the current sign potentially creates safety issues and is not visible, whereas the two new signs take up less square footage overall than the existing sign. Approval is contingent on the signs being in compliance with the renderings submitted with the application including the size of the signs and also subject to the 14 Mile Road sign being limited to 42” in total height.

Roll Call Vote:
Motion passed (9 – 0).

ZONING BOARD COMMENTS

Fahlen referred to a photograph of the Starbucks store and noted the unsightly appearance of a number of newspaper boxes along the outside of the building. He asked if the Council or Planning Board has considered doing what Birmingham has done in terms of requiring uniform newspaper boxes.

Byrwa is not aware of any regulations in terms of newspaper boxes and does not believe that this has been a topic addressed by either the Council or Planning Board. Fahlen suggested that Council consider regulations to this effect.

Schafer welcomed newly appointed member Tim Mercer. He noted that there is still a question as to whether the Zoning Board will be required to incorporate a member of the Planning Board in accordance with the new Zoning Enabling Act. Village Attorney Ryan is reviewing the Act and will provide a legal opinion to Council.

BUILDING OFFICIAL COMMENTS

Byrwa commented that no cases have been filed to date for the August ZBA meeting. The meeting may be canceled unless an application is received in the next couple of days.

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

Motion passed.

Todd Schafer, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary