

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

Absent: Tillman and 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 OF REGULAR PLANNING BOARD MEETING HELD ON WEDNESDAY, MARCH 28, 2007**

Motion by Ostrowski, second by Landsman, that the minutes of a regular Planning Board meeting held on March 28, 2007 be approved as submitted.

Motion passed.

**REVIEW AND APPROVE PROPOSED SIGN FOR KRYSTYNA’S SPA AT 31815 SOUTHFIELD ROAD**

Krystyna’s Spa owner Ziggy Ejmont was present requesting approval of a sign for a new day spa that will be operating in a suite of the Medical Village office complex located at the southwest corner of Beverly and Southfield Roads.

Building official Byrwa stated Village Zoning Ordinance regulations allow up to 48 square feet of wall signage per premises in an office zoned district. The petitioner is proposing to locate a sign saying “Krystyna’s European Spa” on the east wall of the building. The total sign area will be 15 sq. ft. The sign will be lit externally with ground lights controlled by a timer to meet ordinance regulations. Byrwa recommended approval of the sign application on the basis that it meets Village Zoning Ordinance requirements. He added that, pending Planning Board approval of signage, applicants are required to obtain a sign permit and an electrical permit from the Village building department.

Questions from Board members were addressed by Byrwa. He indicated that the ordinance restricts the sign to three colors excluding the background color.

Motion by Ostrowski, second by Freedman, to approve the proposed wall sign for Krystyna's Spa at 31815 Southfield Road.

Motion passed (8 – 0).

**REVIEW AND APPROVE PROPOSED SIGN FOR FLAGSTAR BANK AT 31645 SOUTHFIELD ROAD**

A representative from Flagstar Bank was present in the audience. Building Official Byrwa informed the Board that a ground sign is being requested in a business zoned district at a site that was formerly the Invisible Fence building. Flagstar Bank occupies the westerly half of a new building constructed in that location. A tenant is pending for the east portion of the building. The sign will be located along the Southfield Road side of the building.

The maximum allowed height of a ground sign is 13.5 ft.; the proposed sign will be 13 ft high. The total square footage allowed by the ordinance is 64 sq. ft.; the proposed sign is 49 sq. ft. (7' x 7'). The sign will be internally lit. Byrwa recommended approval of the sign request with the requirement that the lighting be controlled with a timer to comply with the ordinance.

Questions from Board members were addressed by Byrwa. The future tenant panel will be blank at this time.

Motion by Freedman, second by Ostrowski, to approve the proposed ground sign for Flagstar Bank at 31645 Southfield Road.

Motion passed (8 – 0).

**REVIEW AND APPROVE PROPOSED SIGN FOR DR. LERNER AT 32804 PIERCE**

Before the Planning Board for review is a sign request from Fastsigns for a wall sign at 32804 Pierce. The allowable square footage for a wall sign in an office zoned district is 48 sq. ft. The petitioner is proposing a 2' x 6' sign (12 sq. ft.). The sign will not be lit.

Board member Walter observed that there is another sign on the premises and questioned whether the total square footage meets the 48 sq. ft. maximum sign area. Byrwa will physically inspect the site to make this determination.

Motion by Walter, second by Landsman, to approve the proposed wall sign for Dr. Lerner at 32804 Pierce contingent on the total square footage of signage on the premises being less than maximum 48 sq. ft. allowed.

Motion passed (8 – 0).

**PUBLIC HEARING FOR PROPOSED ZONING CHANGES**

Planning consultant Brian Borden from LSL Planning Inc. came forward to provide background and pertinent information on the proposed Zoning Ordinance Amendments. It was noted that the Village Council authorized the Planning Board in 2005 to conduct a neighborhood lot and housing study of the easternmost section of Beverly Hills. The subject area is that portion of the Village east of Southfield Road between 13 and 14 Mile Roads. The intent was to look at the

characteristics of this residential area where there is a high number of nonconforming situations. It was estimated that 70%-80% of the properties in this section do not conform to existing ordinance requirements for the zoning district in terms of lot area, lot width, and side yard setbacks. In comparison, the western portion of the Village has 20% or less nonconforming properties.

Borden explained that a lot that was platted and developed prior to the enactment of the Village Zoning Ordinance would be considered a legal nonconforming lot if it did not meet the requirements of the ordinance. The property owner would be limited, however, in terms of renovating or additional construction on that nonconforming lot.

Borden related that the amount of nonconforming properties results in an inordinate number of variance requests coming before the Village Zoning Board of Appeals from residents who want to modernize and expand their older homes. The Planning Board goal was to encourage a more orderly renovation of the older housing stock in this particular part of the community without the need for a variance from the ordinance in every case.

The Planning Board established the following goals for the Neighborhood Housing Study:

- To reduce the amount of nonconformity in the easternmost section of the Village.
- To reduce the number of ZBA requests for side yard setback variances related to the expansion and modernization of older homes.
- To protect and preserve the established character of the neighborhoods in the subject area (consistent with the goals of the Master Plan).

The Planning Board through its study process examined old records, plat maps, aerial photography, and census data to analyze existing conditions and contemplate improvements. It was found that the eastern section of the Village contains the oldest housing stock in the community with 80% of the homes built between 1940 and 1959. The majority of the ZBA variance requests were for side yard setbacks related to home expansion, and almost all were approved. The majority of variance requests were for properties in the subject area.

Borden stated that Zoning Board of Appeals approval of about 90% of the same type of variance (side yard setback for expansion of homes) signals an issue with the ordinance that can weaken the overall enforceability of the Zoning Ordinance. The regulations do not match the development patterns or the neighborhood character established for this part of the community.

Borden displayed a nonconforming lot map of the Village and pointed out the areas of nonconforming lots in the study area. He reviewed the lot area requirements in the R-2 zoned district (12,000 SF) versus the actual lot area of many of the developed properties in the district, which is almost double the density of the ordinance requirements. There are entire blocks of nonconforming properties.

Borden focused on the Rutland area, zooming in on the aerial map. Based on lot sizes, this neighborhood is developed at 5 units per acre; the way it is currently zoned allows 3 units per acre. He compared a diagram of a typical Rutland lot with a drawing of a lot that meets current R-2 zoning standards (75' lot width, 12,000 SF lot area, 30' of side yard setbacks). What exists

in the area are 5' and 10' side yard setbacks. He made similar comparisons in the northeast section of the Village on Kirkshire where the density is in the range of 6-7 units per acre.

The recommendations from the Planning Board are as follows:

- The Zoning Ordinance is the best tool with which to accomplish the stated goals
- Develop lot area requirements that more closely resemble the development patterns of the subject area – amend Section 22.24 Schedule of Regulations
- Develop setback requirements that more closely resemble the established character of neighborhoods in the subject area – amend Section 22.24 Schedule of Regulations
- Rezone properties as needed so that regulations match the existing neighborhood character – amend Section 22.06.030 Zoning Map

The proposed Zoning Ordinance Text Amendments were outlined:

- Minimum lot area:
  1. R-2 District – reduce from 12,000 to 9,000 SF
  2. R-2A District – reduce from 9,000 to 6,000 SF
  3. R-3 District – reduce from 6,000 to 4,000 SF
- Minimum lot width:
  1. R-2A District – reduce from 75 to 60 feet
  2. R-3 District – reduce from 60 to 40 feet
- Side yard setbacks:
  1. R-2 – reduce from 12.5/17.5 to 5/10 feet
  2. R-2A – reduce from 10/15 to 5/10 feet
  3. R-3 – reduce from 10/15 to 5/5 feet

Borden displayed a map entitled Zoning Ordinance Map Amendments, which identifies specific neighborhoods, blocks, and properties that would be rezoned. He referred to the map to explain what is being proposed in terms of the zoning designations. He pointed out the R-2 area that will not be changed in terms of the zoning map noting that the properties would be affected in terms of the new setback and lot area requirements.

The Planning Board will hold a public hearing on these proposed zoning changes. The Board will consider the input of residents and make a recommendation to the Village Council on an amendment to the Zoning Ordinance. As the legislative body, the Village Council has the final authority on the adoption of ordinance amendments. Council will review the proposed zoning ordinance amendments and may hold a second public hearing before considering action.

Jensen asked the planning consultant to explain what advantages affected properties owner might experience as a result of this proposed Zoning Ordinance Amendment. Borden responded that much of the property in the subject area would become conforming, allowing homeowners more flexibility to modernize and expand their property. Owners could reinvest in their property without the need to go before the Zoning Board of Appeals for a variance in most cases. Long term, allowing this zoning change and eliminating nonconformity would spur investment throughout the neighborhoods and benefit the overall area and the community as a whole.

Jensen remarked that Birmingham has had discussions on “big foot” housing. He asked Borden to address whether this topic pertains to the proposed zoning ordinance amendments.

Borden responded that there are no proposed changes that would impact “big foot” housing. Text amendments are being proposed in the form of width, area, and side yard setbacks that are consistent with what exists in those neighborhoods. The building area of a lot is governed by setback requirements in the Village. Property owners can build within that envelope in accordance to height restrictions.

Jensen opened the public hearing at 8:06 pm.

Carl Cutright of 19116 Hillcrest commented that past zoning regulations allowed homes in this area to be built as they are. He did not understand the purpose of changing the lot size and was afraid that the proposed zoning changes would destroy the charm of the neighborhood by overcrowding. He expressed concern about big foot houses and the effect on the character of a neighborhood.

Renate Klass of 32410 Sheridan observed that the proposed zoning map shows one side of Sheridan in one district and the other side of the street in another zoning district. The planning consultant will take a look at the lot dimensions and provide an answer to the Planning Board.

Pam Rijnovean of 32420 Evergreen expressed concern with the reduction in lot area requirements that would result from the proposed zoning changes. She suggested that the problem of side yard setbacks be addressed instead of decreasing minimum lot sizes. Rijnovean was also concerned about the potential for splitting lots and increased density in the area. She questioned whether zoning changes that allow a minimum lot width of 40 feet would promote “big foot” housing.

Lawrence Needham of 15588 Kirkshire questioned how the proposed zoning changes would benefit the citizens in the neighborhood and expressed concern that the proposal would be detrimental to the area. He thought that there was a need to present numbers showing improved property values, increased tax revenue, or other specific benefits to residents of the neighborhood in question. He was concerned about future lot splits in the area. Needham stated that, as a member of the Zoning Board of Appeals, he can affirm that the Board is not overloaded with requests for variances.

Tom Driscoll of 17115 Beechwood stated that he did not go before the Zoning Board of Appeals for a variance when he renovated a home on Beverly Road. He made improvements that met ordinance requirements, which resulted in a renovation that was less desirable than it could have been. He viewed the proposed ordinance amendments as a positive thing. Driscoll stated that he purchased a neglected home on a 120’ lot. He could either tear down the home and construct a 5,600 SF house or divide the lot and build two houses that fit the neighborhood.

Hillard Gray of 16907 Kirkshire commented that he purchased a small home and constructed a 1600 sq. ft. addition, which increased his property value and his taxes. He made the point that people coming into the Village to redevelop and live here will add income to the community. Change can be good. Many of the homes in the northeast section of the Village are extremely

small and do not meet the needs of today's families. Gray hopes that the Village decides to improve that area.

Kay Michael of 15767 Kirkshire believes that what area residents want is smart redevelopment and smart growth designed to preserve the character of their community, not just rezoning for the purpose of alleviating the very steps that would insure that result. She commented on the issue of nonconformity and the fact that the area is grandfathered because the homes were constructed before the adoption of the current Zoning Ordinance. She objected to changing the ordinance to downgrade regulations to the extent proposed.

Michael stated that the proposed R-3 district creates a non-resident investor incentive to buy two lots, divide the property, and construct homes on three 40 ft. lots thus changing the character of the neighborhood. Permitting a larger footprint on a smaller lot would interfere with adjacent neighbors' privacy, block valuable sunlight, worsen drainage problems, and eliminate green space. Michael did not think it was wrong to change the zoning ordinance to fit what exists in the area, but to further downgrade the area to allow 5 ft. side setbacks and 40 ft. lot widths would result in additional problems.

Bunker Kelly of 21526 Corsaut agreed that people in this area should receive setback relief so they can modernize their homes but was troubled by the proposed reduction in lot sizes. Kelly maintained that there is no problem in terms of the Zoning Board of Appeals. He expressed concern with possible "bigfoot" issues in the neighborhood, fire safety due to decreased side yard setbacks, and sewer system overload if the density is increased.

Art DelVero of 16230 Beverly Road posed questions that were answered by the Planning Board.

Kevin Kline of 15525 Buckingham stated that he has been fixing up a rental home purchased several years ago. There is 10' of open space on one side and 15' on the other side. A variance would be needed to add about 400 sq. ft. to the rear of the house. The ordinance does not allow a property owner to improve their home in his area without obtaining a variance. Questions about seeking a variance from the Zoning Board were addressed by Byrwa. Kline expressed some concern with allowing a minimum 5 ft. setback on either side of a home.

Bill Phillips of 17431 Beechwood expressed appreciation to the Planning Board for addressing this issue and was generally in favor of changing the zoning to match the properties. He thought it was an inappropriate approach to bring appeals to a board for deviations on nearly every home expansion. The proposal recognizes the modern requirements of families and the fact that small houses will not be attractive to families trying to move into this area. Phillips shared his neighbors' concerns with potential homes that would dominate a lot. He encouraged the Board to adopt an ordinance amendment that would bring the existing lots into conformance with the zoning but include restrictions that would limit the types of structures that could be out of character and disruptive to the neighborhood.

Edward Toth of 17500 Kirkshire asked if the new zoning would apply to all R-2, R-2A and R-3 lots throughout the Village. Jensen commented that the Planning Board has not addressed property west of Southfield Road. Borden indicated that the proposed amendment to the schedule of regulations would affect all R-2 zoned property in the Village. Toth commented that the map

on the Village web page mentions proposed structural coverage maximums. Jensen indicated that this has not been further considered by the Board.

Paul Fantozzi of 4446 Sheridan, builder and developer, thought that issues raised by the residents were valid. He commented on the poor real estate market in Michigan and the fact that property in the northeast section of the Village is losing value because of the age and small size of the homes. He understood the concern about splitting lots and suggested implementing restrictions that address lot coverage.

Tim Mercer of 17400 Locherbie commented that he is a resident whose request for variance before the Zoning Board of Appeals was denied. He is now a member of the ZBA. After hearing the concerns expressed by residents, Mercer suggested that the Planning Board may want to revisit the R-3 zoning changes proposed in the ordinance amendment. He expressed the view that the zoning changes are necessary and overdue. When property is nonconforming, there is a risk that the homes will not be upgraded. His concern was that the problems will be compounded in the future if the Village does not address this issue now.

Bob Walsh of 20655 Smallwood Court said that the premise that the Zoning Board of Appeals is overburdened by variance cases is false. He expressed the view that maintenance of homes would solve a lot of the problems in the area. Walsh expressed concern about downsizing of lot sizes in the proposed ordinance amendment, particularly in the R-3 district. He brought up “big foot” concerns in view of the proposed reduction in lot sizes. With respect to the topic of sewer capacity, Walsh stated that the Village has been upgrading the sewer system in the last 10 years with major work done on the east side of the Village.

Dave Taylor of 16950 Buckingham commented that he was on Council when it approved the Planning Board neighborhood study. He credited the Board for the thoughtful work that has gone into this analysis, and supports adopting measures that will allow for reasonable improvements. Taylor does not see anything in the proposal that would allow for “big foot” development. He is concerned about the areas that have been deemed as R-3 and hoped the Planning Board would give that further consideration.

Taylor concurred that there is a need to be proactive in addressing the issue of decreasing property values in the Village. He respects the fact that some residents have said that they like the neighborhood the way it is. However, other municipalities are addressing these issues and people will move into communities that allow reasonable improvements. Beverly Hills needs to retain its current residents and attract new families. He indicated support of allowing investment in our community.

Jensen closed the public hearing at 9:08 pm. and thanked everyone for their comments.

Jensen stated that he would be in favor of tabling the proposed Zoning Ordinance Amendments until the Planning Board has taken a look at the impact of the R-2 district west of Southfield Road. Freedman suggested that the sewer and drainage issues be addressed by the Board.

Motion by Freedman, second by Landsman, to table the proposed Zoning Ordinance Amendments to consider the comments heard at the public hearing.

Motion passed (7 – 0).

A recess was called at 9:10 pm. The meeting reconvened at 9:17 pm.

### **PLANNING BOARD COMMENTS**

Walter thought that members of the public brought up good points but that the Planning Board had considered the issues mentioned for the most part.

Wayne commented that it is important to encourage people to modernize their homes and add revenue to the Village. Compromises may be needed on some issues and consideration given to regulations to prevent “big foot” housing. There were issues brought up by intelligent people that will be addressed.

Freedman did not know the answer to the sewer issue raised tonight. She expressed some concerns about “big foot” housing and would consider adding language to the ordinance that would restrict overdevelopment of a lot.

Landsman commented that she recently listed her house for sale and had to disclose that her house is nonconforming. Changing zoning laws to make what is existing legal would benefit her and others. Landsman related that her neighbors were uncomfortable with having to go before the ZBA for a variance. There are people who consider alternatives before going before a government body where they could be rejected. The Planning Board has been focusing on helping out a distressed section of the community that needs relief.

Borowski thought that the public hearing provided insight to this important issue. The proposed zoning amendment has important and personal implications to a number of people. The Planning Board will think about the comments received this evening.

Borowski reported that he was appointed to the ad hoc committee formed to conduct a feasibility study on the village becoming a city. The organizational meeting of this group will be next Monday afternoon.

Ostrowski expressed the view that the Village Zoning Board of Appeals has become a design review board in terms of considering whether to allow a homeowner to expand their nonconformity. That is not necessarily their role. He referred to comments made this evening and emphasized that it is not the intention of the proposed ordinance amendment to make property less valuable. He supports the proposed zoning changes and would be ready to forward a recommendation to Council following a review of the R-2 zoning in other sections of the Village.

Ostrowski announced that the Beautification Committee is accepting applications nominating themselves or others who have done something attractive to their property. The deadline for nominations is August 30, 2007. Applications are available at the Village offices or on the Beverly Hills web site.

Jensen commented that, as a builder and developer, he views nonconforming lots in a community as a red flag. Most of the surrounding communities guard and defend their ordinances and make

people prove hardship before a variance is granted. Beverly Hills has 80% nonconformity and thinks it is normal, when our ordinances state that nonconforming lots are to be extinguished. Expansion of nonconformity is not allowed according to the ordinance. Jensen maintains that the role of the Village's Zoning Board of Appeals should change. It is not reasonable that residents should have to bring an architect and a lawyer before the ZBA and show a design of what they are proposing to all their neighbors before receiving permission to build an addition.

Jensen remarked that the Planning Board has not talked about the impact of the proposed zoning changes on R-2 zoned property on the west side of the Village. He would not recommend moving this ordinance amendment forward until this is addressed. Borden will provide information on this topic at next month's meeting. Byrwa will obtain a report from the engineering department on sewer capacity in the northeast section of the Village.

#### **PLANNING CONSULTANT'S COMMENTS**

Borden asked for and received suggestions in terms of how to tweak his presentation on the proposed Zoning Ordinance Amendments. Copies of the final Master Plan document will be included in the next month's Planning Board packet.

#### **BUILDING OFFICIAL COMMENTS**

Byrwa discussed two topics: publication of tonight's public hearing and building code requirements addressing fire separation between dwelling units.

#### **PUBLIC COMMENTS**

Bob Walsh questioned the fire separation issue with respect to a specific business site, which was addressed by Byrwa.

Tim Mercer commented on the sewer capacity issue.

Motion by Freedman, second by Ostrowski, to adjourn the meeting at 9:57 p.m.

Motion passed.

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

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

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