

Present: Chairperson Schafer; Vice-Chairperson Mercer; Members: Brady, Fahlen, Farris, Francis, Needham and Tillman

Absent: Verdi-Hus

Also Present: Building Official, Byrwa  
Council liaison, Peddie  
Council members, Berndt and Oen

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

### **APPROVE MINUTES**

Motion by Tillman, second by Farris, that the minutes of a regular Zoning Board of Appeals meeting held on August 13, 2007 be approved as submitted.

Motion passed (8 – 0).

### **CASE NO. 1191 (tabled from 8-13-07)**

**Petitioner & Property:** Ascension of Christ Lutheran Church  
16935 W. 14 Mile Road  
TH-24-01-127-013

**Petition:** a) Petitioner requests a variance to erect a playscape in the side yard; b) Petitioner requests a variance to erect a 4 foot fence.

Building Official Byrwa stated that the applicant has made significant changes to the proposal since the last hearing in terms of reducing the height and size of the play structure. The play structure will be constructed entirely of wood and will be located closer to the building. Two evergreen trees will be added to screen the play area from view. Byrwa displayed a drawing of the site plan. He suggested that two windows on the building at grade level located in the play area be protected or changed to tempered glass for safety purposes.

Chairperson Schafer reviewed that the Zoning Board heard Case No. 1191 at its August 13, 2007 meeting at which time a motion to approve the request to erect a play structure in the side yard failed. The petitioner had asked that the request for a variance on fence height be tabled.

William Baldner, architect, stated that he has been working with church representatives to develop this play structure playground and enclosure. The Church has submitted new information since the last meeting, and he was present with the expectation that the play structure would be addressed as a revised proposal along with consideration of the fence height. Baldner thought that the Church had reapplied and submitted a revised plan.

Byrwa affirmed that another fee was paid by the Church. The revised information was treated as a new case and a mailing went out to property owners within 300 feet of the Church. A new case number was not assigned to the revised proposal.

Baldner stated that the play structure proposed at the August meeting was 14' tall and 25.5' long. The new information submitted for this meeting shows that the play structure will be 19' square by 11' tall. The size has been significantly reduced, and the construction has been changed to all wood.

There followed a lengthy discussion on procedural issues relative to hearing this case. It was determined that the Zoning Board of Appeals could take action on the request for a variance on fence height. Because the request to erect a play structure in the side yard was denied by a vote of the Zoning Board (Case 1191), this body could only consider the revised plan if it came before them as a new application with a new case number. There was concern that area residents were not notified of the possibility of approving a play structure on church property.

Bob Smith of 16907 Birwood stated that he voiced concern about the playscape proposal at the August ZBA meeting. He and another resident met with the petitioner since the last meeting, and their concerns have been addressed by the Church representatives. Smith said that it was clear to him that this case was tabled and would be brought back. He supported the revised proposal.

A motion by Board member Francis to reconsider the request from Ascension of Christ Lutheran Church for a play structure failed for lack of support.

It was suggested that the Church file a revised petition with a new case number to be heard by the Zoning Board at its November meeting. It was the consensus of the Board to hear the request tonight for a variance in fence height and to hear comments from the petitioner and the public on a modified proposal for the play area. However, no action will be taken on a variance to allow a play structure in the side yard.

Baldner outlined the request for a 4 ft. high fence in conjunction with a play structure. He reviewed that there were a couple of neighbors who expressed concern at the August meeting about the play structure as proposed. Following that meeting, Pastor Tom Zucconi met with the two residents and walked the site. The neighbors indicated that they would be satisfied with the proposal if the size of the structure were reduced. The play structure was reduced to a 17' x 17' size at a height of 9 feet. Another part of the compromise was to move the structure closer to the building where it is blocked from view as you approach from the north. The canvas awning cover will be eliminated and the structure will be constructed of all cedar. In addition to the proposed landscaping, two pine trees will be planted for added screening and will create a park-like setting.

Baldner referred to the site plan and presented a case for locating the play structure in the side yard rather than in the rear yard where there is a parking lot. Locating the structure in the rear yard would cut off one end of the parking lot from the other. He also noted that there are residences located across the street from the rear yard.

Practical considerations include the fact that there is a door that accesses the educational facility of the church at the side yard location. The structure would be in direct proximity with the educational portion of the building. The existing park-like setting of the side yard would be maintained. The property across the street from the proposed play yard is zoned office and not residential.

The play area is proposed to be enclosed by a 4 ft. high, dark green aluminum picket fence. A five foot high Arborvitae hedge will be planted at the perimeter of the fence. The Church has specified that the hedge will be planted with 4 ft. high evergreens that will be maintained at 5 ft. high so the fence will not be seen from Pierce street. Baldner affirmed that the fence is needed for the safety and security of the children who will be using the play area. The area across the street is zoned for office use and not residential. Baldner reiterated that the fence, landscaping, and play structure has been reviewed and approved by two of the neighbors who objected to the plan at the August ZBA meeting.

At its June 27, 2007 meeting the Planning Board unanimously passed a motion to recommend special use approval for Ascension of Christ Lutheran Church for construction of a recreation structure on church property contingent upon approval of applicable and necessary variances from the Zoning Ordinance by the Zoning Board of Appeals. A second motion was passed to recommend approval of the site plan dated 5/7/07 for a recreation structure on the east side of the Ascension of Christ Lutheran Church property contingent upon Zoning Board of Appeals approval of necessary variances. Approval was also contingent upon: 1) Screening the dumpster in a way that does not impair the visibility of pedestrians from vehicles entering or exiting the property, and; 2) Additional trees along the Pierce Road right-of-way to screen the play structure. Baldner referred to the plan to explain that the dumpster has been relocated on the site.

Cindy Grove of Bloomfield Hills introduced herself as the children's program director for the Outreach Program conducted at Ascension of Christ Lutheran Church. She stated that this is a well thought out plan that has been in the works for a long time. Grove conducts a community program for 20 children, many of whom are Beverly Hills residents. She would like to have an outdoor facility for the children. Safety considerations in terms of the structure and fencing are a priority.

Elizabeth Klos of 18136 Buckingham, member of the congregation, affirmed that the Church council has provided support for this play area. It is a step in the right direction to keep the children healthy and safe in an environment that is conducive to learning.

Daniel Walter of 31384 E. Rutland, former Planning Board member, stated that the Village Master Plan indicates that Beverly Hills has a number of quasi-public recreational facilities and it encourages these types of places for people to recreate and enjoy themselves in the community. Walter believed that the Church is proposing a reasonable facility that is in the best location situated across the street from office space.

Baldner addressed questions from the Board regarding the location of the play area on the side yard versus the rear yard. He indicated that the fenced area will be secured and closed to the public. The location of the fence is four feet from the property line.

**Decision:** Motion by Tillman, second by Fahlen, to approve a request of Ascension of Christ Lutheran Church to erect a 4 foot high fence in the side yard along Pierce Street as indicated on plans submitted that specify an aluminum picket fence and the addition of two evergreen trees. Approval is contingent on the Church providing protection for the two windows in the play area or changing the windows to tempered glass and with the condition that the fenced area be secured by the Church.

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

Byrwa stated that a new application will be filed with a new case number. There will be another mailing to notify residents within 300 feet of the church of the hearing on a request for variance to allow a play structure in the side yard of Ascension of Christ Lutheran Church. The next Zoning Board of Appeals meeting will be held on Tuesday, November 13, 2007 due to the Veterans Day holiday.

**CASE NO. 1192**

**Petitioner and Property:** Nancy Stermer  
32260 Arlington  
TH-01-281-002

**Petition:** Petitioner requests a variance to deviate from the required rear yard setback of 40 ft. to 34.5 ft. to allow proposed construction of an addition.

Byrwa displayed the site plan, noting that the house was constructed in 1949. The applicant is requesting a rear yard variance in order to build an addition onto the back of the house. Byrwa observed that neighboring properties both have additions that exceed the dimensions of the petitioner's proposed addition. There is heavy vegetation around the perimeter of the property, which will make the addition less visible to surrounding property.

The petitioner Nancy Stermer distributed a handout to Board members containing photographs of the interior of her home and floor plans for the existing house and the addition. The purpose of the variance is to allow for the construction of a 222 sq. ft. addition to her 1,032 sq. ft. home to accommodate a new kitchen and dining room.

Stermer addressed the need for an addition and the required variance in order to build onto the house. Photographs depicted her small kitchen and dining area. The floor plan demonstrated that the existing layout limits any expansion options to the east or west. The petitioner indicated that she has worked with two architects over a two-year period in an attempt to build within the setback requirements, but all design plans resulted in a need for the same variance. The addition is a minimal expansion and the proposed construction is consistent with other homes on the street. Stermer stated that she would prefer to continue to invest in her neighborhood rather than move to a larger home. She remarked that the neighbors and the president of the homeowners association are in support of her proposal to build an addition.

The petitioner's architect Eric Smith and builder Craig Bellinger were present to answer any questions from the Board. Inquiries from Board members were addressed by the petitioner and architect. It was noted that a small bump-out shown on the plan submitted this evening was not presented in the previously distributed site plan drawing. The bump-out does not change the variance request before the Board.

Communication was received from the following residents who indicated their support of Ms. Stermer's proposed addition:

Jon and Ashley Baker	32150 Arlington
Reza and Jennifer Sazgari	32227 Arlington
Josh and Jodi Forquer	32240 Arlington
Dominic Giancarlo	32276 Arlington

Harvey and Lisa Oliva of 32251 Arlington indicated support of the variance. Eduardo Echartea of 32224 Arlington was present in favor of the proposed addition. Dan Nelson of 32311 Sheridan, homeowner association president, stated that he supported the proposed addition and would like Nancy Stermer to remain in the neighborhood.

Schafer thanked the petitioner for presenting a well thought out request for variance. He believed that the necessary conditions for granting a variance were met based on the size of the house and the lot; the practical difficulties involved; the minimal request for variance; and considering the neighborhood.

**Decision:** Motion by Tillman, second by Fahlen, to approve the variance as requested to include a 2 ft. bump-out on the east side of the addition with the width of the addition not to exceed 22 feet. The petitioner has demonstrated that enforcement of the ordinance creates an exceptional practical difficulty.

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

**CASE NO. 1193**

**Petitioner:** Ian Mailing (Prize Properties)  
2147 Daintree Ave, W. Bloomfield

**Property:** 18469 Hillcrest  
TH-02-254-014

**Petition:** The Village Zoning Ordinance:  
1. 22.24 R-1 zoned 16,000 sq. ft.  
2. 22.24 R-1 lot 100 ft. width  
3. 22.24 R-1 zoned side yard requires 15 ft.  
4. 22.24 R-1 zoned side yard requires 20 ft.

Deviation requested:

1. Allow proposed new house on lot that is nonconforming in size (existing 9,945 sq. ft.)
2. Allow house that is nonconforming in width (existing 82.5 ft.)
3. Allow side yard deviation from required 15 ft. to 8 ft.
4. Allow side yard deviation from required 20 ft. to 10 ft.

Building Official Byrwa stated that Beverly Hills resident and builder, Ian Mailing, acquired a home on Hillcrest built in 1950. He intends to remove the existing house and build a new house with a footprint smaller in size than the original home. The ordinance states that, should a structure be destroyed by any means where replacement costs exceed 60% of the total value of the building, it can only be rebuilt as a conforming structure. It is being requested that the existing nonconforming lot be recognized as a buildable lot. Variances are required for lot size and width. Side yard variances are also being requested. Byrwa emphasized that the existing house is closer to the lot line than the proposed home will be.

The petitioner Ian Mailing distributed an aerial map of the neighborhood showing that there are four other developed lots on Hillcrest that are smaller than the subject lot and six other developed lots within 100 yards that are the same size or smaller. Many of the platted lots in the vicinity have less than the required 100 ft. width.

Mailing stated that the existing structure is a ranch house on a slab with a dormer added over the garage. He described the house as being poorly constructed and in a state of disrepair on the exterior and interior. There is currently no utility service at the property. The overhangs of the existing house are unsightly and add to the side yard encroachment. Mailing maintained that the responsible thing to do would be tear down the old house and rebuild it.

The floor plan was displayed, and Mailing described the layout of the proposed new house. The house would represent a reduction in nonconformity and would be in keeping with the character of the neighborhood. Mailing plans to build a two-story 3100 sq. ft. four-bedroom house with a 2.5 car garage. The size and design will be that of a Cape Cod Tudor style home. The footprint of the proposed house will be approximately 10% less in size than the existing structure. The setbacks requested are consistent to what exists in the neighborhood. Mailing thought that the proposal will benefit the community in terms of improving the neighborhood and adding to the tax base.

Questions from Board members were addressed by the petitioner. Mailing agreed to a motion being contingent on building a house consistent with the concept drawings presented. He indicated that it would not be feasible from an engineering or economic perspective to retain at least 40% of the existing structure.

Patricia Wilson of 18444 Hillcrest, neighbor across the street, supported the petitioner's proposal on the basis that it would be an improvement to the neighborhood. The house has been vacant for many years and is uninhabitable.

**Decision:** Motion by Fahlen, second by Brady, to approve the variances requested for lot area and lot width.

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

Motion by Tillman, second by Brady, to approve the variances requested for side yard setbacks to allow 8 ft. on one side and 10 ft. on the other side, contingent on the petitioner building a new house consistent with the concept drawings presented in terms of style of house, front masonry, elevation, and square footage.

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

#### CASE NO. 1194

**Petition and Property:** Edward Doll  
16969 Georgina  
TH24-01-376-031

**Petition:** To approve side yard variance for addition at existing 7.8 ft. in deviation of required 12.5 ft.

Byrwa displayed a site plan of the proposed property and house built in 1949. Under the current R-2 Zoning, a minimum 12.5' side yard is required. The existing house is 7'- 8" from the side lot line. A permit was issued on this addition with the stipulation that construction on the east side of the home cannot be closer than 12.5' from the lot line. The petitioner is waiting for a variance from the Zoning Board of Appeals or for the recently adopted zoning change to go into effect and allow them to build the addition in line with the side of the existing house.

Byrwa related that the Village Council adopted an ordinance to amend Chapter 22 of the Municipal Code (Ordinance No. 326) at its October 2, 2007 meeting. The ordinance will go into effect on October 27, 2007 at which time the minimum side yard setback requirements for this R-2 zoned lot will be 5 ft. on one side and 10 ft. on the other side. If the Zoning Board opted to table this request for variance, the building could be constructed as proposed on October 27, 2007 when the zoning change goes into effect. If the ZBA approved the request for variance, the builder could construct that wall sooner.

Louise Affeld of 16951 Georgina stated that she supported the deviation requested. She presented the Board with a letter from George Ostrowski of 16982 Georgina, who is also in support of the proposal.

**Decision:** Motion by Tillman, second by Farris, to approve the variance as requested due to a recent amendment to the Village Zoning Ordinance that will go into effect on October 27, 2007.

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

**PUBLIC COMMENTS**

None

**ZONING BOARD COMMENTS**

None

**BUILDING OFFICIAL COMMENTS**

The November Zoning Board meeting will be held on Tuesday, November 13 due to the Veteran's Day holiday.

Motion by Needham, second by Brady, to adjourn the meeting at 9:37 p.m.

Motion passed (8 – 0).

**Todd Schafer, Chairperson**  
**Zoning Board of Appeals**

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

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