

Present: Chairperson Schafer; Vice-Chairperson Mercer; Members: Brady, Farris, Needham, Tillman and Verdi-Hus

Absent: Fahlen and Francis

Also Present: Building Official, Byrwa  
Council liaison, Berndt

Chairperson Schafer called the meeting to order at 7:32 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road

### **APPROVE MINUTES**

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

Motion passed (7 – 0).

### **CASE NO. 1196**

**Petitioner and Property:** Anna and Jeff Hurley  
32891 Norchester  
Part of Lot 2516, all 2517  
Beverly Hills #6, TH24-02-226-008

**Petition:** Petitioner requests a side yard deviation from the required minimum 15' open space to 5' for an addition.

Byrwa reviewed that this case came before the Zoning Board of Appeals on September 12, 2005 with the property owner requesting two variances. A request for a rear yard deviation from 40' to 33.4' was denied by the Board. A side yard deviation from the minimum 15' open space to 5' for a rear addition that would continue with the existing line of the house was granted. The property is in an R-1 zoned district. The house was built in 1951 prior to the adoption of the Village Zoning Ordinance.

Byrwa explained that the request for variance is before the Zoning Board today because construction did not commence within a one-year time period as required by the ordinance. The petitioners are requesting only a side yard variance with the rear yard setback remaining at 49 feet. Byrwa displayed photographs of the property and pointed out the location of the proposed 13' x 15' addition.

The petitioner Jeff Hurley explained he and his wife propose to add a bathroom and laundry room to the rear of the house. There is no other space to locate the addition because the bedrooms are on the opposite side of the house. He and the architect were not able to arrive at a better location. The petitioner and architect addressed questions from the Board regarding the size of the house and addition and the rear yard setback. He clarified that there will be a second floor addition.

Schafer commented that he did not find the request disproportionate to what exists in the neighborhood given the placement of the home on the lot as it exists 5 ft. from the lot line.

**Decision:** Motion by Mercer, second by Verdi-Hus, to approve a variance from the required 15' side yard setback to 5' for a distance of 12.7' due to the placement of the house on the lot and the practical difficulty with locating the addition where it will be functional in terms of the existing interior layout of the house.

Roll Call Vote:  
Motion passed (7 – 0).

### **CASE NO. 1197**

**Petitioner and Property:** Gail Perrott  
16300 Birwood  
Eco City Sublot 70, TH24-01-202-026

**Petition:** Petitioner requests: 1) side yard deviation from required minimum 5' open space to 3' for an addition; 2) deviation from minimum 15' open space between structures to 11'4".

Byrwa reviewed that this request for variance to build a rear addition came before the Zoning Board of Appeals in 1990 and was approved. The variance request is before the Board tonight because construction did not commence.

Byrwa related that this property was affected by the recent Zoning Ordinance Amendment, which allows a minimum 5' side yard setback on both sides in an R-3 zoning district. The existing home was built 3' from the side lot line, which will require a variance from the ordinance. The new ordinance amendment also requires a minimum of 15' between structures in all zoning districts. A second variance from the ordinance is being requested because there is 11'-4" between the new construction and the house to the east.

Byrwa displayed photographs of the property and the house, which was built in 1928. The pictures show that a foundation wall was started in 1990, but the construction of the small addition was abandoned. The petitioner is asking to build the addition that was requested previously.

Contractor Rick Hadad stated that the existing house predates the adoption of the Beverly Hills Zoning Ordinance. The intent is not to encroach any further into the side yard than the existing nonconformity. There is an existing foundation for the reason that the previous contractor went out of business and abandoned the project that Hadad intends to complete. The addition will be sided to match the rest of the house and will be an improvement to the house and the neighborhood. Hadad believed that strict enforcement of the ordinance would be an unnecessary burden, and he respectfully requested that a variance be granted.

In response to an inquiry about alternative placement of the addition, Hadad stated that the structure is intended to enlarge an existing bedroom. The addition would not make sense anywhere else on the property. Hadad addressed questions from Board members on the house, property, and the previous case.

A letter was submitted to the Board from adjacent homeowner, Vernetta Paterson at 16292 Birwood, who had no objections to the side yard deviation.

Mercer questioned whether all houses that do not have 15' between adjacent structures will have to come before the Zoning Board of Appeals for a variance even if they have the required 5' setback. There followed discussion relative to the language of the new ordinance requiring 15' between structures on abutting parcels in all zone districts and whether it was contradictory.

Byrwa stated that the Building Code requires a minimum 10' between residential structures to prevent a fire from jumping from one structure to another structure.

Bob Walsh of 20655 Smallwood Court commented that it will be difficult to enforce the requirement for 15' between structures on abutting parcels if the minimum side yard setback requirement in an R-3 district is 5' on either side. He recapped discussion that took place at the Council level with respect to the 15' requirement between houses and questioned whether there was an inconsistency in the adopted ordinance. Walsh had no comments on this particular case.

Ron Berndt of 31384 E. Rutland, Council member, recounted background on the ordinance amendment without referring specifically to the case before the Board. He introduced the amendment to the proposed ordinance that added the 15' separation rule to the setbacks proposed in the draft ordinance. It was a deliberate requirement intended to decrease nonconformity while minimizing any additional building coming within that 15' distance in the future.

Needham viewed the ordinance as a flawed piece of legislation for the reason that it allows a minimum 5' side yard on each side in an R-3 zoning district, but requires 15' between houses.

Schafer thought that there was agreement with the interpretation of the ordinance, which requires that the property owner needs to apply for both variances in cases such as this.

**Decision:** Motion by Farris, second by Needham, to grant a side yard deviation from required minimum 5' open space to 3' to continue with the existing line of the house; further, to approve a variance to allow 11'-4" between structures on abutting parcels in lieu of the 15' distance required by the ordinance for the reason that enforcement of the ordinance would create a practical difficulty.

Roll Call Vote:  
Motion passed (7 – 0).

## **PUBLIC COMMENTS**

None

**BUILDING OFFICIAL COMMENTS**

Byrwa stated that the Zoning Board will meet on January 14, 2008 to hear a case involving Detroit Country Day School. At its November 20, 2007 meeting, Council took action to approve a site plan for Detroit Country Day School to construct a gymnasium and fitness center on its property subject to the Zoning Board of Appeals interpretation and/or waiver of the ordinance requirement for a perimeter sidewalk. Byrwa provided background on this issue, and Board members commented on the pending case.

Motion by Needham, second by Brady, to adjourn the meeting at 8:30 p.m.

Motion passed (7 – 0).

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

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

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