

Present: Chairperson Jensen; Vice-Chair Ostrowski; Members: Borowski, Freedman, Tillman, Stempien, Wayne and Westerlund

Absent: Liberty

Also Present: Building Official, Byrwa
Planning Consultant, Borden
Council member, Pfeifer

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 Borowski, second by Freedman, to approve the agenda as published.

Motion passed.

PUBLIC COMMENTS

None

APPROVE MINUTES

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

Motion passed.

REVIEW REQUEST FOR SITE PLAN AND SPECIAL APPROVAL FROM 4PAWS COMMUNITY CENTER, 31119 GREENFIELD ROAD

Planning Consultant Borden referred to the review letter from LSL Planning dated January 17, 2008 outlining his initial review of a proposal for a new use within an existing multi-tenant commercial building. The applicant is proposing to open a dog and cat boarding facility that will offer a number of related pet care services. The facility will provide full and half-day dog daycare, overnight boarding, manicures, bathing, training, grooming, and retail services. Borden said that these type of facilities are becoming popular in a number of communities.

Borden stated that there is a question relating to the permissibility of the use as described based on his interpretation of the Zoning Ordinance. The project was sent to LSL Planning as a site plan review and special land use in the B Business District. Retail business uses are permitted principal uses in the B District when all activities take place within an enclosed building. The closest example to the proposal listed in the ordinance is a veterinary hospital, which is permitted provided that all animals are kept entirely within the principal building. The applicant proposes to use two fenced-in outdoor exercise areas. Outdoor activities are not listed as permissible in the B District (either by right or as a special land use), which complicates the request. It was Borden's opinion that the use as proposed with outdoor activities is not allowable; the applicant must remove the outdoor activities from the proposal in order to proceed with the project.

Borden stated that, when a specific use is not included in the ordinance, there could be an interpretation that results in identifying that use as similar to another use that is permitted. If the use is something that is desired by the community, consideration could be given to pursuing an amendment to the Zoning Ordinance. Borden specified the three alternatives that the applicant and/or Village may wish to pursue:

- 1) The applicant may remove the outdoor activities from the proposal and site plan. The project could then be evaluated via site plan review as a use similar to the description found in Section 22.22.030 (c).
- 2) The Village could interpret the outdoor activity proposed as an accessory component to the principal use. This portion of the use could be deemed to be customarily incidental to the principal activity of a business/service conducted entirely within an enclosed building.
- 3) The Village may wish to amend the Zoning Ordinance to accommodate such uses if they are deemed desirable by the Village and its residents.

Borden concluded that it is the opinion of LSL Planning that the project as proposed is not permissible in the B Business District for the reason that outdoor uses are neither listed as permitted nor special land uses in Section 22.22. A pet care business of some sort may be allowable at this location provided that all activities take place entirely within the principal building. If the applicant wishes to modify the request, a determination would then need to be made as to whether site plan review and approval is required based upon a change in use. Alternatively, the Village could view the outdoor activity as customarily incidental to the principal use and allow it as accessory. Borden suggested that this approach would warrant additional discussion as to how the Ordinance is interpreted for this request and others that may follow.

Borden said that his intent was to provide background and promote discussion between the applicant and the Planning Board in order to provide the applicant with direction and establish a basis for a decision.

Building Official Byrwa presented his opinion on the site plan, which is an example of a use that does not fit the ordinance. The problem with the proposed site plan is the two outdoor exercise areas. It was Byrwa's interpretation that those fenced-in areas are customarily incidental to the permitted principal use and should be classified as an accessory use. Village Ordinance Section 22.22.030 (permitted uses after special approval) limits and restricts the review to 10 uses that appear to be principal uses. There is no mechanism within the ordinance to review alternative uses for special approval. Byrwa would recommend approval of the site plan with the outdoor exercise areas permitted as an accessory use.

Byrwa added that site plan issues that need further clarification are outdoor fencing height and style and signage (one sign up to 120 sq. ft. is permitted). In answer to an inquiry from the Board, Byrwa clarified the exact location of the site.

Members of the Planning Board discussed the applicable sections of the Zoning Ordinance relative to permitted principal uses in a business district and permitted uses after special approval. The requested use is not identified in the ordinance but is most similar to a veterinarian use. Board members questioned how they could recommend approval of an outdoor use for this proposal given the strict limitation on a similar use that requires animals to be kept within the principal building. It was noted that the ordinance language is clear about what is prohibited in a Business District including any use that generates offensive and loud noises. Dogs barking outside may fall within that category. The proposed facility would be about a school where the proximity of children playing outdoors could incite dogs to bark.

Freedman said that she has observed employees walking dogs on the premises of the veterinarian hospital located at the corner of Fourteen Mile and Southfield Roads. She questioned whether it is considered an ancillary use to bring a dog outside at some point when they are housed inside.

Business owner Linda Travis was present along with builder Justin Jeris from Kemp Building & Development. Jeris explained that the outdoor area is a necessity for this type of business because people expect that their animal will have an opportunity to be outdoors. His company has constructed four other dog daycare facilities that include outdoor areas. Jeris maintained that the fenced-in outdoor area is an accessory incidental use to the principal use of the dog and cat boarding facility.

Jeris stated that a request for signage would be submitted under a separate application. The drawing submitted with the site plan request was an artistic rendering that can be modified. Jeris explained that it is proposed to install vinyl privacy fencing that will screen the animals from the school children. He did not think that the proposed use would have a negative impact on the neighborhood.

Linda Travis explained that dogs in the play area will be supervised by a staff member who will engage the pets in activities so that barking will not be a problem.

Chairperson Jensen opened the public hearing at 7:56 p.m. on a request for site plan and special use approval to permit a pet day care facility at 31119 Greenfield Road.

Mary Murphy on Madoline said that she takes her dog to a similar facility where there are webcams; she has observed that the dogs are rarely outside. She expressed the view that this business would benefit Village residents.

Ann O'Donnell, Village resident and pet owner, expressed the view that this type of facility fills a need in a community that caters to families.

Dorothy Pfeifer on Charrington Court concurred that there may be a need for this type of facility in the Village. It was her opinion that this is a unique site because of its proximity to the school playground. Her residence is also within close proximity of the proposed animal boarding facility, which would impact the quality of life in her neighborhood. The field between the site and her street provides no buffering.

Janet Makris stated that her husband Dr. Nicholas Makris owns the office building on 15590 W. Thirteen Mile Road, the second building west of Greenfield Road. Their concern is the noise that could be generated by barking dogs. She submitted a letter from Dr. Makris objecting to the proposed animal boarding facility.

Bob Walsh of Smallwood Court had questions about the building entrance, which were addressed by the applicant. The hours of operation would be 7 a.m. to 7 p.m. Monday through Friday with limited hours on the weekend for dropping off or picking up animals.

Bernie Petzold, Southfield resident, was present in support of the proposed facility. She indicated that she has visited several of these dog daycare facilities and affirmed that trained employees keep the dogs from barking in these tightly run operations.

No one else wished to be heard; the public hearing was closed at 8:12 p.m.

There followed further discussion by the Planning Board about the proposal for a dog and cat boarding facility and whether it could be approved under Ordinance Section 22.22.020.

Freedman thought that there was a need for a dog daycare facility in the Village and questioned whether there is any section of the Zoning Ordinance that would permit this use.

Byrwa thought that the Planning Board could allow this facility under Section 22.22.020(e) *Accessory Uses shall be: 2. Any use customarily incidental to the permitted principal use.* Byrwa added that it would be assumed that the proposed use would be similar to the veterinary hospital use because the Village Ordinance does not address a dog daycare use.

Stempien said that he was struggling with trying to adjust the proposed use to fit a veterinary hospital category in order to meet the ordinance requirements. It appears that the ordinance does not have a section that accommodates this use. He agreed that there is probably a need for this type of facility in the community.

Byrwa stated that some municipalities permit this use to be reviewed under a special approval category and process, which the Village ordinance does not allow.

Westerlund agreed that there is a need for this type of facility in the area. Although the concept of the proposed use is different from a kennel, there is a concern about noise from barking dogs. Westerlund stated that there is no definition of a kennel in the ordinance, which leads him to believe that it was not intended to permit kennels in the Village. The Planning Board is not allowed to make an interpretation of an ordinance unless it is specifically permitted in the ordinance. Westerlund suggested that the proper way to proceed with this application would be to consider an amendment to the Zoning Ordinance.

Jensen proposed that the business owner has the ability to create a structure that would serve their needs and utilize this site by designing an enclosed structure that would allow for daylight and fresh air yet contain sound. If the petitioner wanted to do this, she could return with a plan for an enclosed addition to the building.

Tillman thought that the proposal was a desirable concept for a new business in the Village. It is a question of whether the use is covered under the ordinance and whether the use fits in that particular location. She expressed the view that either the petitioner has to amend the site plan or the Village has to amend its ordinance in order for this proposal to proceed. There is a need for public input on whether to allow a use that houses animals outside of a facility.

Ostrowski asked questions, which were addressed by the business owner. Travis emphasized that she would not be able to compete in the market if the facility was entirely indoors. Ostrowski thought that interpreting the outside play area for pets as a customarily incidental use would be applicable here as an accessory use. The question is whether the Planning Board has the flexibility to make that determination.

Jeris assumed that the Village has an ordinance that prohibits excessive noise from any business and that this ordinance was enforced. He did not think that special conditions need to be applied to this approval. If noise becomes an issue, the Village has the authority to address the problem. Jeris stated that the proposed facility is not feasible without an outdoor play area.

Motion by Westerlund, second by Freedman, that the Planning Board recommend that the site plan application for 4Paws Community Center be denied on the basis that the outdoor fenced area is not permitted as an accessory use under the provisions of Section 22.22.020 of the Village Zoning Ordinance, Permitted Principal Uses.

Roll Call Vote:

Wayne	- no
Westerlund	- yes
Borowski	- yes
Freedman	- yes
Jensen	- yes
Ostrowski	- no
Stempien	- yes
Tillman	- yes

Motion passed (6 – 2).

The applicant Linda Travis asked if the Village would be willing to amend its Zoning Ordinance to allow this use. Jensen responded that the Planning Board will raise this issue during its joint meeting with Council scheduled for Wednesday, February 13, 2008.

REVIEW DRAFT 5 OF ORDINANCE AMENDMENTS TO 22.08.110 (ACCESSORY BUILDINGS, STRUCTURES AND USES IN RESIDENTIAL ZONED DISTRICTS)

Language for an amendment to the Zoning Ordinance related to accessory buildings was a topic of discussion at the November Planning Board meeting. The Board has been attempting to formulate appropriate ordinance language that would address its concern with oversized accessory buildings in the community. At the previous meeting, Freedman suggested that adding a depth-to-width ratio in subsection ‘g’ would restrict someone from building the type of oversized garage that has been deemed to be objectionable. She was asked to prepare wording for consideration by the Board.

Freedman distributed a handout explaining her idea for ordinance amendment language that pertains to an accessory building that will shelter a vehicle. Her proposed wording indicated that the restriction shall not apply to accessory buildings utilized in conjunction with a swimming pool.

Members discussed accessory structures in the Village that do not fit the character of the neighborhood in terms of size and style. The Planning Board is trying to address and correct what is believed to be a shortcoming in the Ordinance. It was suggested that the language should prevent someone from taking advantage of any loopholes in this ordinance.

Jensen asked the planning consultant what would keep the Village from enacting some level of design review guidelines for new construction or major renovation. Borden responded that the Village has some authority to adopt an ordinance based on a finding of maintaining community character. Caution must be taken not to overly regulate items that are subjective. He could provide the Planning Board with sample language from other ordinances if that is something that the Village is interested in pursuing.

Borden stated that he has experience with ordinances that limit structure size via lot coverage and floor area ratio. He was unable to locate an ordinance adopted by any communities he has worked with that dictates shape to the extent of establishing a depth-to-width ratio for a building. He questioned whether it would be defensible.

Planning Board members discussed how to proceed with language for an ordinance amendment to restrict the size of accessory buildings. Developing design guidelines was also a topic of discussion. After considerable debate, the Planning Board decided to raise the topics of accessory building restrictions and design review guidelines for new residential construction or major renovations at its joint session with Council in February and request their input. Planning Board members will prepare educational materials and drawings to illustrate the topic of regulating accessory building sizes.

REVIEW REQUEST FOR PROPOSALS (LANGUAGE CRITERIA) FOR SOUTHFIELD ROAD CORRIDOR IMPROVEMENT STUDY

The Board reviewed the language prepared by LSL Planning for Request for Proposals for the Southfield Road Corridor Improvement Study. Borden highlighted the document in terms of describing what the Village wants and expects to receive in terms of this project and what is required in the submittal.

Board members suggested a couple of modifications that will be incorporated into a revised RFP. Borden was asked to reword the “Existing Conditions” paragraph to indicate that the Village has completed an inventory of the subject area, which is on file and will be available to firms interested in this work. Village employee, architect Bob Bliven, will be asked to update the Southfield Road existing conditions. The RFP should state that a short list of firms will be developed and interviews will take place.

Wayne related that he attended a special Council meeting on Tuesday, January 22 at which time the Council President mentioned that students attending Lawrence Tech may be able to

undertake the Southfield Road Corridor project as part of their curriculum and provide innovative ideas to the Village at no charge.

Borden will incorporate the suggested changes and send the revised RFP to members of the Board so the Village can proceed with distributing the document. Those responding to the RFP will be required to provide five bound copies of the complete proposal to the Village Clerk's office no later than 4:00 p.m. on February 29, 2008.

PLANNING BOARD COMMENTS

Stempien encouraged the Board to consider developing and adopting design standards. He volunteered to make a case study presentation for the joint meeting with Council.

Wayne commented that any construction design initiated by a homeowner in Westwood Commons must go before an architectural committee for approval. He questioned how many Village neighborhood associations employ this mechanism.

Freedman observed that there are Village residents who are challenging the recently adopted Zoning Ordinance Amendments.

Borowski asked that any handout or recommendation received by the Planning Board be dated and attributed to the author. He referred to a sheet prepared by the Village Building Official included in the materials for tonight's meeting.

Jensen stated that the joint meeting of the Planning Board and Council is scheduled for February 13. He asked members to contact him if they have additional topics for discussion.

PLANNING CONSULTANT COMMENTS

None

BUILDING OFFICIAL COMMENTS

Byrwa stated that the Zoning Board of Appeals has at time placed conditions on its approval of a variance for an addition on a house in order to establish harmony in the neighborhood.

PUBLIC COMMENTS

Dorothy Pfeifer thanked the Planning Board for its decision on the 4Paws dog and cat boarding facility. She expressed the opinion that the Village is an established community and does not have the space that would sustain this kind of a business without imposing on neighbors.

Motion by Tillman, second by Ostrowski, to adjourn the meeting at 9:36 p.m.

Motion passed.

David Jensen, Chair
Planning Board

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary