

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

Absent: Westerlund

Also Present: Council liaison, Oen  
Planning consultant, Borden

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**

The agenda was approved as published.

### **PUBLIC COMMENTS**

None

### **APPROVAL OF MINUTES**

Motion by Borowski, second by Liberty, that the minutes of a regular Planning Board meeting held on May 28, 2008 be approved as submitted.

Motion passed.

### **REVIEW REQUEST FOR SITE PLAN APPROVAL FOR A MEZZANINE EXPANSION TO THE BEVERLY HILLS CLUB AT 31555 SOUTHFIELD ROAD**

Stanley and Stephen Satovsky were present requesting site plan approval for a mezzanine expansion to the Beverly Hills Club. Stephen Satovsky outlined the proposal for a yoga studio addition of 1,080 square feet in the existing mezzanine area of the building. The club is currently running yoga classes; members are not satisfied with the quality of the space compared with other area yoga studios.

The Village Zoning Ordinance requires one parking space for each three patrons based upon the maximum occupancy established by the building code, plus one space for each employee at peak shift and other spaces required for affiliated uses. Stephen Satovsky stated that the ordinance did not contain specific standards for an indoor recreation or fitness center. He divided the building into the various areas of use (tennis courts, aerobics studio, swimming pool, basketball, fitness area, yoga studio) and determined the maximum number of people who could be using each facility at one time in order to calculate parking requirements. He provided calculations for the multi-use health club using 1 occupant per 50 square feet of gross floor area.

The calculations indicate that there could be 281 people in the building at one time. The ordinance requires one space per three patrons, which would translate into a requirement for 94 parking spaces. The number of employees during the peak morning shift is 24; there are 13 people using the physical therapy area at one time. Satovsky stated that a total of 131 parking spaces are required using these calculations. There are 147 spaces on site. The Beverly Hills Club has a lease agreement with McDonalds whereby it has the use of 30 additional spaces, bringing the total on-site and contracted parking to 177 spaces. This does not take into account

the parking spaces available at the adjacent Bed, Bath & Beyond store. Satovsky believed that the parking requirement is met for the yoga studio expansion.

Satovsky referred to the review letter dated June 18, 2008 submitted by Brian Borden from LSL Planning, Inc. It indicates that building code information provided by the Village Building Official provided the basis for determining occupancy of the facility. According to ordinance calculations of 1 occupant per 50 square feet of gross floor area, the resulting occupancy is 1,771 persons. This results in the need for 590 parking spaces, plus another 24 for employees and 13 for the physical therapy use, or a total of 627 spaces.

The review letter cites the Institute of Transportation Engineers (ITE) Parking Generation manual to determine alternative parking calculations. Satovsky stated that these standards applied to the site could be as low as 157 or 175 parking spaces. The planning consultant has reviewed other Zoning Ordinance standards that range from 1 space per 1,000 square feet of gross floor area to 1 space for each 4 memberships. The 1 per 1,000 regulation would result in the need for 126 parking spaces. The Beverly Hills Club would have the ability to comply with the low end of the range of parking required in national studies and other ordinances that are not based on occupancy. Satovsky requested that the Planning Board recommend approval of the site plan as proposed.

Satovsky addressed questions from Board members regarding the scheduling of activities, the potential of a full parking lot if there were an overlap of members in the locker room and facility, the parking agreement with McDonalds, and availability of Bed, Bath & Beyond parking spaces.

Freedman commented that it appeared that there may be adequate parking for the proposed addition. However, she questioned whether existing parking regulations were excessive when applied to other businesses.

Stempien outlined the current ordinance requirements and questioned whether they were realistic for the type of facility in question.

Planning consultant Borden stated that, in order to approve the internal expansion, the parking must be reviewed to verify that the site can handle additional patrons. In this instance, the site does not comply with the current ordinance standard with or without the proposed addition. The review memo roughly calculated the parking requirement for this site based on maximum occupancy established by the building code. The current ordinance standard results in an excessive amount of parking (627 spaces) for this use.

Borden was unclear as to how the Village viewed the parking shortage during a site plan review for the 1999 expansion of the Beverly Hills Club. It is the opinion of LSL that something should be done to address this situation if the applicant is to proceed with their proposed expansion. The alternatives could be to either have the applicant petition the Zoning Board of Appeals for a variance from the parking requirement, or amend and update the parking regulations to a more reasonable standard.

Freedman expressed the view that this proposal should be forwarded to the Zoning Board of Appeals for a variance. The Village's parking ordinance may need updating, but it should be examined in terms of current and future business use.

Jensen commented that the Beverly Hills Club is an established business and that approvals have been granted for past updates and renovations. The health club is a unique business with a high turnover. He thought that the facility had enough parking with 177 spaces. They have leased 30 parking spaces from McDonalds. Jensen suggested that the request for an internal addition was reasonable, and that the Club has shown that it makes sense based on the use generated. He would support forwarding this site plan to Council for approval.

Borowski concurred that the Beverly Hills Club has responded to changes in business over time. While logic should be a guide, Borowski was not comfortable with ignoring the law. He suggested forwarding the proposal to Council for a decision on how to proceed.

Wayne related that he used the facility regularly and did not experience trouble finding a parking space. He thought that there was a hardship in terms of complying with the ordinance as written and would favor recommending site plan approval.

Ostrowski understood that the Beverly Hills Club is redeveloping internal space rather than adding physical space to the lot. The facility could continue its operation with a nonconforming parking lot. If the proposed parking requirement is based on the 1,080 square foot yoga studio, about 20 additional parking spaces are required. The agreement with McDonalds would accommodate that need.

Jensen added that the Beverly Hills Club was in compliance with parking requirements when the facility was built prior to an ordinance change. He questioned how the parking lot could now be deficient to such a large extent, making it a nonconforming commercial use.

Tillman recalled that the 1999 renovation of the Beverly Hills Club was approved without additional parking requirements. She suggested that the topic should be whether there is a need to update the zoning ordinance.

Freedman suggested that the current ordinance may not be outdated with respect to all businesses. It may be unrealistic in terms of this use. She supported referring this proposal to the Zoning Board of Appeals for a variance due to the peculiar situation.

Motion by Tillman, second by Liberty, to recommend approval of the site plan as submitted for a mezzanine expansion to the Beverly Hills Club at 31555 Southfield Road with recognition that the number of parking spaces does not meet the requirements of the ordinance; further, the Village planner has indicated that Village parking requirements pertaining to athletic clubs are not consistent with national standards and other comparable ordinances. The proposal is to add 1,080 square feet for an internal addition, which requires 20 spaces. The Beverly Hills Club has added an additional 30 spaces through a lease with McDonalds.

Board member Stempien asked to abstain from voting because he knows the architect who prepared the plans for this proposal. In response to inquiries from the Board, Stempien indicated that he had no financial interest in the proposal. Board members requested that he not abstain from voting.

Roll Call Vote:

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

Motion passed (6 – 2).

**REVIEW POSSIBLE ORDINANCE AMENDMENTS FOR ACCESSORY STRUCTURES**

Borden stated that the draft ordinance amendments distributed for this meeting incorporate the most recent changes and comments discussed by the Board over a number of months. There was discussion on the scope and clarity of certain sections of the document. It was agreed to forward the draft ordinance amendments to Council for their consideration.

Motion by Freedman, second by Tillman, that the Village Planning Board forward the Ordinance Amendments for Accessory Structures to the Village Council for review and comment.

Motion passed (8 – 0).

**REVIEW POSSIBLE ORDINANCE AMENDMENTS TO THE PLANNING AND ZONING BOARDS MEMBERSHIP AND APPOINTMENTS OF ALTERNATE MEMBERS**

At its June 3, 2008 meeting, Council instructed the Planning Board and planning consultant to review and recommend amendments to Sections 21 and 22 of the Village Municipal Code to accommodate dual membership on the Planning Board and Zoning Board of Appeals and to allow for appointment of two alternate members of the Zoning Board.

Borden distributed draft ordinance amendments that would bring the Village Municipal Code in compliance with the Michigan Zoning Enabling Act of 2006 and subsequent amendments to that Act. The Zoning Enabling Act of 2006 required a municipality to have a planning commission member sit on the Zoning Board of Appeals. It also allowed for the appointment of alternate members to the ZBA due to the voting procedures of the Zoning Board. Borden related that the Village has appointed a member of the Planning Board to sit on the Zoning Board without amending the Village Zoning Ordinance to conform to the new Zoning Enabling Act.

Borden proposed an ordinance amendment entitled 21.01 Planning Board, which updates municipal code language relative to the creation, membership and officers of the Planning Board to be in compliance with new State Law. Proposed Ordinance Amendment 22.38.010 Zoning Board of Appeals, Creation will update the Zoning Ordinance section addressing Zoning Board membership. Borden pointed out that, since its adoption in 2006, the Zoning Enabling Act has been changed again to say that “One member of the Zoning Board of Appeals **may** also be a

member of the Village Planning Board.” The Zoning Board is not required to have a Planning Board member sit on its Board.

Freedman referred to the following paragraph:

*A member of the Zoning Board of Appeals who is also a member of the Village Planning Board or Village Council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Board or the Village Council. However, the member may consider and vote on other unrelated matters involving the same property.*

Freedman thought that consideration should be given to whether the Planning Board should have a joint member on the Zoning Board of Appeals if that individual cannot vote on issues that have come before the Planning Board. The legitimacy of the Zoning Board vote is affected without the participation of that joint member. There are nine members on the ZBA. In order for the Zoning Board of Appeals to approve a variance, there must be an affirmative vote of five members of the Board no matter how many are sitting at the time.

Tillman, Planning Board member who sits on the Zoning Board of Appeals, commented on a recent case involving Detroit Country Day School when she had to recuse herself due to this new provision of the State Law. She questioned how to address the fact that the Planning Board member could be hindered in terms of voting on potential sensitive issues. The Zoning Board has asked that Council appoint two alternate members to the Zoning Board of Appeals for this reason and for situations when a quorum is not available at a meeting.

Tillman questioned the way the ordinance amendment language was drafted. She suggested that wording be added to the last paragraph so it is clear that, if a Council member or joint member cannot participate, the alternate members can participate.

Jensen commented that a Planning Board member listens to a site plan review and discusses the issues of that plan. The Board votes on a recommendation to the Village Council. The purpose of an applicant appearing before the Zoning Board of Appeals is to prove hardship and not to continue to review the site plan. Jensen understood the Planning Board member’s participation at the Planning Board meeting and at the Zoning Board of Appeals meeting to be completely separate issues. Listening to the merits of a hardship should be considered independently of the site plan review.

The Planning Board asked for interpretation from the Village Attorney on the language in proposed Section 22.38.010. Members did not think previous participation by a Planning Board member on an issue should be considered a conflict of interest on the Zoning Board of Appeals.

Tillman proposed that additional language be added to Section 22.28.010, last paragraph, to provide that an alternate can sit and act if a Zoning Board member does not participate because he or she participated in a vote while sitting as a Council or Planning Board member.

#### **DISCUSS CREATION OF DESIGN REVIEW BOARD**

Stempien and Westerlund are prepared to review material and make a recommendation to the Planning Board as a whole on establishing a design review board. Stempien questioned

Council's direction in terms of whether the Planning Board should proceed with consideration of a design review board at this time.

Seven of the eight Planning Board members present were in support of proceeding with a design review board. Stempien will prepare a one-page summary listing the merits of developing a design review process that would require people building new homes to comply with a set of standards and come before a subcommittee of the Planning Board for review of their plans and materials. He will forward the document to Council member Oen, who will submit it to Council for further direction.

#### **ELECTION OF PLANNING BOARD CHAIR AND VICE CHAIRPERSON**

Annual elections are held for a chairperson and vice-chairperson of the Planning Board. Jensen opened the floor to nominations for the office of chairperson.

Freedman nominated David Jensen as chairperson of the Board. There were no further nominations. Jensen was re-elected as Board chairperson by acclamation.

Tillman nominated George Ostrowski as vice-chairperson. There were no further nominations. Ostrowski was re-elected as vice-chairperson by acclamation.

#### **PLANNING BOARD COMMENTS**

Stempien requested a definition of 'conflict of interest' and reasons for abstaining from voting on an issue. Members discussed what would constitute a conflict of interest. Further information on the topic will be requested from Village Attorney Ryan.

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

None

#### **BUILDING OFFICIAL'S COMMENTS**

Board members offered their condolences to Dave Byrwa on a death in his family.

#### **PUBLIC COMMENTS**

None

Motion by Borowski, second by Freedman, to adjourn the meeting at 9:04 p.m.

Motion passed (8 – 0).

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

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

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