

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

Absent: Jensen

Also Present: Building Official, Byrwa  
Planning Consultant, Cramer

Vice-Chairperson Ostrowski 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**

Ostrowski asked that agenda item #7 be postponed until the October meeting. The planning consultant will have information available for discussion of ordinance amendments for Zoning and Planning Board membership at that time.

Motion by Borowski, second by Liberty, to postpone agenda item #7, “Review ordinance amendments for Zoning and Planning Board membership and appointment of alternate ZBA members.”

Motion passed (8 – 0).

### **PUBLIC COMMENTS**

None

### **APPROVAL OF MINUTES**

Motion by Freedman, second by Wayne, that the minutes of a regular Planning Board meeting held on July 23, 2008 be approved as submitted.

Motion passed (8 – 0).

### **REVIEW APPLICATION FOR SIGN PERMIT REQUEST FROM DETROIT DELI, 31645 SOUTHFIELD ROAD**

The owners of Detroit Deli submitted an application for a sign permit after the sign was erected. Building Official Byrwa stated that signage for Detroit Deli located at 31645 Southfield Road complies with Village Ordinance requirements. The sign is approximately 22 square feet; the ordinance allows a 64 sq. ft. ground sign not to exceed a height of 13.5 feet. The sign also meets ordinance requirements in terms of color and letter style.

Detroit Deli occupies the eastern half of the dual tenant building. Flagstar Bank is no longer operating out of the west half of the building. There is another 22 sq. ft. of signage available on the bottom half of the sign when the remainder of the building is occupied. The total signage will not exceed the 64 sq. ft. maximum area. Byrwa recalled that the ground sign was approved two years ago at the request of Flagstar Bank.

Co-owners of Detroit Deli Constantin Carstea and Jordan Dalaly were present. Byrwa recommended approval of the sign request as submitted.

Motion by Freedman, second by Liberty, that the Planning Board approve the application for sign permit as requested for Detroit Deli at 31645 Southfield Road.

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

**REVIEW PROPOSED REZONING REQUEST AND CONDUCT A PUBLIC HEARING FOR LOT 5 OF GOULD COURT FROM R-3 SINGLE FAMILY RESIDENTIAL TO P-PARKING ZONING AND PROVIDE RECOMMENDATIONS TO COUNCIL**

Planning consultant Robert Cramer outlined the review letter from LSL Planning regarding the proposed rezoning of Lot #5 of Gould Court from R-3 single family residential to P-Parking district. The vacant lot is approximately 0.25 acre in area and is located on the south side of Gould Court west of Southfield Road. The site is situated behind the McDonald's restaurant and adjacent to the Beverly Hills Club, both of which front Southfield Road.

The Beverly Hills Club is requesting rezoning of the property for the development of a surface parking lot to be utilized by its employees. A site plan has been submitted for reference. If the proposed rezoning is approved, the applicant must go through the site plan review process outlined in the Zoning Ordinance. The applicant is not the current owner of the property and must provide the Village with evidence indicating that they have authorization to request the rezoning. Cramer related that the Beverly Hills Club owners have indicated that they have a purchase agreement on the property.

LSL Planning has applied generally accepted review standards to the proposal for consideration by the Planning Board. The Future Land Use Map in the Master Plan identifies the site and adjacent residential properties to the west as high density residential. The commercial area along Southfield Road is used as planned. LSL is unaware of any physical limitations of the property that would not allow it to be developed as a surface parking lot, which is the only principal permitted use allowed in the proposed zoning district.

The applicant has not provided evidence that the site cannot receive a reasonable return on investment by developing the property with any of the uses permitted under the current zoning. It is the opinion of LSL that it may be reasonable to conclude that the site is not ideal for single family residential given that it is adjacent to existing commercial uses on its east and south sides.

The parking district would be compatible with the surrounding commercial and offices uses. It would bring a commercial-type use closer to the residential area to the west. However, the proposed rezoning would provide a step-down transition from the Southfield Road commercial district to the less intense parking use.

The review letter from LSL indicates that capacity of the infrastructure and services should be sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Village. The site has vehicular access via Gould Court. Primary issues relate to storm water drainage and the capacity and condition of the roadway. Gould Court is a private road and is in poor condition. The proposed site plan identifies 38

parking spaces, which would generate substantially more trips than would development under current zoning. It was unclear whether the roadway could handle an increase in vehicular traffic.

Cramer mentioned that the Beverly Hills Club received a variance from the parking ordinance by the Zoning Board of Appeals in August of 2008, which will allow the Club to construct an internal addition and operate with the parking spaces currently available on their site. This includes a shared parking arrangement with the adjacent McDonald's restaurant. The applicant's need for additional parking spaces is unclear.

In summary, LSL has the following concerns with the proposed rezoning:

1. The requested zoning is not consistent with the Village Master Plan.
2. The applicant has not provided specific evidence indicating the site cannot reasonably be developed under current zoning.
3. The use allowed in the proposed zoning district has the potential to adversely impact the adjacent residential property and may be deemed an incompatible use.
4. Gould Court does not appear to have the capacity nor be in a condition to support an increase in intensity of use for the subject site under the requested zoning.
5. Assurance must be received that there is a storm water facility to handle runoff from the impervious surface.

Byrwa informed the Board that Lot #5 of Gould Court is owned by Arthur Stoll of Oxford, Michigan. He related that the residential zoning in that area had originally extended to Southfield Road. The property along Southfield Road was rezoned to a business district in 1968 to allow for construction of the McDonald's restaurant. There are five lots behind McDonalds; four with houses and one vacant lot directly behind the restaurant.

Stephen Satovsky, Beverly Hills Club owner, clarified that he did not want the Planning Board to vote on the rezoning request tonight; he would prefer a fact-finding session. Satovsky displayed the site plan for the proposed parking lot for the Beverly Hills Club.

Satovsky related that the Beverly Hills Club submitted a request to the Village in June for site plan review and approval for construction of a 1200 sq. ft. interior addition to the mezzanine area of the health club. The Planning Board recommended approval of the site plan to Council; Council referred the request to the Zoning Board of Appeals for an interpretation, decision, and/or variance from the Zoning Ordinance relative to parking requirements. The Zoning Board granted the request for variance; Council subsequently approved the site plan for construction of the addition stipulated upon the Zoning Board of Appeals requirements for a parking variance. Approval of the addition was conditioned upon the Beverly Hills Club maintaining a lease, license or other parking arrangement with an adjacent property owner to provide at least 30 additional parking spaces.

Satovsky remarked that the Beverly Hills Club is requesting this rezoning to construct a parking lot that would assure that the Club can meet the parking requirements imposed by the Village to provide 30 additional spaces. The parking lot, which abuts the side of the Club, would only be used for employee parking due to its location. At its peak time, the Club has 24-26 employees.

Satovsky requested that the Planning Board postpone action on the rezoning request because the Club is researching another way to enter the property without using Gould Court. He affirmed that Beverly Hills Club would maintain Gould Court at no charge to the residents if approval was granted to rezone the property for use as a parking lot. The parking lot construction would include landscaping to provide natural screening for the adjacent property. The proposal would represent a buffer zone between the residential and commercial use.

Ostrowski declared the public hearing open at 7:56 p.m.

Rukni and Nancy Abboud of 18207 Gould Court were present to voice their opposition to the rezoning request. Rukni Abboud read a letter from Nibras J. Abboud of 18189 Gould Court, who will reside in the house that abuts the vacant lot. Nibras Abboud expressed opposition to the rezoning proposal for a parking lot due to concerns about privacy, noise, exhaust pollution, loitering, and an unsafe living environment. Abboud thought that the vacant lot could be developed into a residential site; a parking lot would diminish property values.

Rukni Abboud read another letter from his parents, Mr. and Mrs. S. Abboud of 18199 Gould Court, who have lived in the house since 1974. They want Lot #5 to remain residential and vacant. The Abbouds thought that a parking lot on Gould Court would bring loitering and crime to their safe home. They did not want the last lot in their subdivision to be converted into a parking lot and become a blight to the neighborhood.

Nancy Abboud provided handouts to Board members and presented information including the names and addresses of the five Gould Court property owners, an aerial photograph of the street and residences, photographs of the homes, and the reasons why residents reject the request to rezone Lot #5 from R-3 single family residential to P-parking zoned district. Reasons for opposition to the rezoning are as follows: safety, air pollution, noise pollution, intrusive lighting, decrease in property value, loitering, and littering. Nancy Abboud addressed issues associated with the proposed parking lot in terms of additional traffic flow.

Abboud outlined concerns with the site plan proposed by the Beverly Hills Club. Gould Court is not wide enough to accommodate two vehicles at the same time. She suggested parking alternatives in the area. Abboud emphasized that the Beverly Hills Club request for a variance from the parking ordinance was approved by the Zoning Board of Appeals. The Club demonstrated that it had ample parking space for its customers with 147 spaces on site and 30 additional parking spaces leased from McDonald's.

Nancy Abboud asserted that neither the Village nor residents would benefit by adding a parking lot at the front end of their private, residential street. The request would result in a hardship for Gould Court residents and would set a precedent for commercial property to request rezoning of a residential area. Abboud affirmed that most of the residents living on Gould Court oppose the request to convert residential Lot #5 to a parking lot.

Questions from Rukni Abboud on the proposal were addressed by planning consultant Cramer and building official Byrwa. It was noted that site plan criteria would be reviewed if a rezoning

request were approved. At this point, the petitioner has requested that a vote on the rezoning application be postponed to the next meeting pending the submittal of new information.

Anita Flory of 18217 Beverly Road, whose property abuts Gould Court, commented on the proposal and urged that the Village retain the residential zoning and use of the property.

No one else wished to be heard; the public hearing was closed at 8:32 p.m.

Stephen Satovsky addressed a few of the issues raised. He said that the landscaping proposed by the Club would preserve and enhance the privacy of property owners. There would be no loitering or security issues in the parking lot used strictly by employees. The lot has been vacant for a number of years; Satovsky suggested that Gould Court residents could have purchased the lot if they wanted it to remain vacant.

Satovsky reiterated that the only reason that the Beverly Hills Club is making this application is because Council has required the Club to maintain an additional 30 parking spaces. The request is being made as an insurance policy. Satovsky remarked that they will research another alternative. They are attempting to proceed in the best possible way to bring a positive resolution to the situation.

Freedman mentioned that the property owner has a right to develop or sell his property. Gould Court residents should have purchased the property if they wanted a private park at the end of their street. Freedman questioned whether the property has been on the market previously and whether there has been an attempt to develop the site as a single family residence. When people buy a home in a residential area, they have the right to think that it will remain residential unless it is demonstrated that there is a reason for changing the zoning. The Beverly Hills Club has the burden to convince the Village to approve its rezoning request.

Ostrowski asked for clarification of the intent of the Club owners. Stephen Satovsky responded that they would like to purchase the property and receive rezoning and site plan approval for future use. In response to an inquiry, Satovsky stated that the Club is pursuing an option to access Lot #5 through the McDonald's parking lot.

Cramer interjected that the Club is currently requesting only rezoning of the property. If the rezoning were approved, the Beverly Hills Club would be allowed to use the property in accordance with ordinance uses for the district. A site plan cannot be submitted for review until the property is rezoned. Submitting a site plan with a rezoning request is useful in terms of providing an idea of what the petitioner is proposing for the site.

Ostrowski reviewed that the Beverly Hills Club requested site plan approval for an addition this summer, at which time a determination was made that their site was deficient in parking according to the Zoning Ordinance. The applicant demonstrated to the Zoning Board of Appeals that there was adequate parking with on-site parking and an additional 30 spaces leased from McDonald's. The concern on the part of the Zoning Board and Council was that the Club continue to have a parking arrangement to provide those 30 spaces. Ostrowski emphasized that parking provided at the health club facility is currently nonconforming to the ordinance.

Ostrowski stated that the Club would have to obtain an easement in order to use Gould Court. It would probably be within the purview of the Village to require the Club to widen or improve Gould Court up to that point if it is serving a public facility. It is a long, dead-end parking lot without a second means of egress. Joint access through the property should be encouraged if possible.

Westerlund referred to the site plan and noted that the general provisions of the Zoning Ordinance describe landscaping and buffers between residential and parking districts. The requirements of Section 22.09.040 would eliminate the whole stretch of cars parked along the west side of the lot.

Freedman commented that the Village generally prefers a greenbelt to a 6 ft. privacy wall. She suggested parallel parking spaces along the landscaped side of the lot in lieu of a screening wall.

Tillman empathized with the Club's effort to accommodate the parking needs of its customers. The Zoning Board of Appeals approved the request for variance from the parking ordinance. Council wants the Club to retain the ability to lease 30 parking spaces. Tillman had reservations with rezoning the property in question considering the residential nature of the street but noted that there is a McDonald's restaurant adjacent to the lot in question.

Board members questioned whether there is a necessity for proceeding with a rezoning request and site plan for a parking lot. Freedman suggested asking Tom Ryan to review the motion made by the Zoning Board of Appeals and Council and interpret whether the Beverly Hills Club is required to maintain 30 additional spaces.

Ostrowski stated that the Planning Board is engaged in a Southfield Road corridor study. The Board and consultant will analyze the entire corridor and consider issues such as shared parking. Something may come out of the process that addresses parking in the entire corridor.

Stempien proposed that the Planning Board recommend that Council reexamine the parking requirements for an athletic facility. This discussion may be unnecessary if the current ordinance was amended to provide a more logical approach to parking requirements for that type of facility.

The rezoning request from the Beverly Hills Club was tabled at the request of the petitioner.

## **REVIEW ORDINANCE RECOMMENDATIONS FOR ACCESSORY BUILDINGS AND USES**

The Planning Board is in receipt of a letter dated September 17, 2008 from LSL Planning reviewing the concerns raised by the Village Council with respect to draft amendments regarding accessory buildings. Cramer outlined the planning consultant comments on those items.

### *Definition of usable floor area*

The current Zoning Ordinance has a standard definition for "floor area, usable, residential." The intent of "usable floor area" was not to penalize those with 2-story dwellings by using "ground floor area" as originally proposed. If there is a concern about this phrasing in the draft

amendment, it could be replaced with “total floor area” of the dwelling. This would result in a larger area by which accessory buildings would be tested.

Westerlund recommended against changing the text because the definitions do not describe “total floor area”. The definition of “usable floor area” is concise.

*Paragraph ‘i’ – why is the Planning Board the determining body and not the Zoning Board of Appeals?*

The suggested language is to provide the Planning Board and applicants with some amount of flexibility in terms of design where it can be demonstrated that no harm will come to surrounding properties. It is not intended to reflect the need for a variance, which is a much more stringent case to prove. As such, it would not be a variance, appeal or interpretation, which are the standard responsibilities of a ZBA.

*Paragraph ‘g’ – it was suggested to clarify wording, “Garage doors facing the street shall not exceed a total length of 24 feet”, to indicate whether it means the total length of the door or the total length of all doors.*

The Planning Board’s intent and LSL’s interpretation of the language is that it applies to the total length of all garage doors.

Westerlund proposed a modification in the language as follows: “Garage doors facing the street shall not exceed a length of 24 feet in cumulative total and shall not exceed a height of 9 feet”.

*There was concern about including play structures in the definition of accessory structures.*

Cramer stated that it was the planners’ interpretation that such equipment meets the current definition of a “structure”. The intent was to provide examples to further distinguish accessory structures from buildings. This could be removed if desired.

Westerlund affirmed that the intent was not to regulate play structures; the intent was to regulate accessory buildings and not structures. The amendment defined a structure and a building by examples, and the differences between the two. The Board agreed not to change the proposed language.

There was agreement to provide Planning Board responses to Council comments and concerns and to forward the revised amendments to Council for consideration.

Motion by Westerlund, second by Tillman, to provide Council with the Board’s response to their comments on draft amendments to Accessory Buildings and Structure Ordinance and to refer the revised ordinance amendments to Council for review and approval.

Motion passed (8 – 0).

## **REVIEW PROPOSED ZONING CHANGES FROM NEIGHBORHOOD STUDY WEST OF SOUTHFIELD ROAD**

Planning consultant Cramer reviewed a memo from LSL Planning dated September 17, 2008 summarizing the options for implementation of the current nonconforming study for the portion

of the Village west of Southfield Road. The study area was broken down into two levels of priority (A and B) based upon the amount of nonconformity in a given neighborhood. A presentation was made at a previous meeting summarizing the results of the nonconforming lot study using GIS mapping to evaluate the impacts of different changes. The letter summarizes the results of the study, LSL recommendations for rezoning, and reductions in nonconformities that will result if the recommendations are executed.

The three clusters of Priority A parcels constitute approximately 570 parcels east of Evergreen and west of Southfield Roads. A table in the correspondence shows what the different changes would do for properties currently zoned a variety of districts (R-1, R-1A, and R-2). The recommendation for all of the parcels in Priority A would be to rezone them to R-2B, which would provide the greatest reduction in nonconformity.

The Priority B area includes seven clusters of parcels that are all currently nonconforming under the R-A district. All but one of the approximately 50 parcels in these clusters will be conforming if the recommended rezoning to R-1 is executed.

Cramer addressed questions and comments from the Board on the findings of the study and how it will be presented to the public. The planning consultant will discuss the study in greater detail with the Board at the October meeting.

#### **PLANNING BOARD COMMENTS**

Westerlund commented that he is anxious to hear from consultant Bob Gibbs. He anticipates that some of the issues that have come forward in terms of parking could possibly be resolved as the Village plans for the future of the Southfield Road corridor.

Westerlund reminded everyone to become informed on the Village millage restoration proposal that will be on the November ballot.

Stempien thought that a number of Planning Board issues could move forward if there was a business corridor study and implementation plan. He suggested that a revision to the parking ordinance including a logical basis as it applies to an athletic club would be beneficial to business owners.

Ostrowski informed the Board that consultant Bob Gibbs plans to attend the next Planning Board meeting to update the Board on the Southfield Road corridor study.

Freedman thought that the Board should receive formal clarification of the parking requirements that apply to the Beverly Hills Club. The business owners deserve to know whether an additional 30 spaces are required. She concurs that the Planning Board may want to consider an amendment to the Zoning Ordinance relative to parking for an athletic club. LSL Planning has provided preliminary information to the Board on this topic.

Freedman stated that Detroit Country Day School filed suit last week with regard to the Village's ordinance requirement to provide sidewalks along the perimeter of the campus in conjunction with the construction of a gymnasium.

**PLANNING CONSULTANT COMMENTS**

None

**BUILDING OFFICIAL COMMENTS**

Byrwa agreed that there is a need to look at the Village's commercial parking requirements.

**PUBLIC COMMENTS**

Questions from Rukni Abboud on the west side nonconforming lot study and its effect on Gould Court were addressed by Byrwa. Abboud mentioned that the attorney for Arthur Stoll, owner of Lot #5 on Gould Court, contacted Abboud regarding his interest in purchasing the vacant lot.

Motion by Stempien, second by Tillman, to adjourn the meeting at 9:45 pm.

Motion passed.

**George Ostrowski, Vice-Chair**  
**Planning Board**

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

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