

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

Absent: Stempien

Also Present: Planning consultant, Borden
Building Official, Byrwa
Council Liaison, Oen
Council Member, Briggs

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 Ostrowski, to approve the agenda as published.

Motion passed.

PUBLIC COMMENTS

None

APPROVAL OF MINUTES

Motion by Borowski, second by Westerlund, that the minutes of a regular Planning Board meeting held on January 28, 2009 be approved as submitted.

Motion passed.

Motion by Ostrowski, second by Westerlund, that the minutes of a joint Council/Planning Board meeting held on February 11, 2009 be approved as submitted.

Motion passed.

PUBLIC HEARING ON PROPOSED ORDINANCE AMENDMENTS FOR ACCESSORY BUILDINGS/STRUCTURES AND DEFINITIONS

Planning consultant Brian Borden summarized proposed Ordinance Amendments for accessory buildings, structures, and uses in residential zoned districts. The Village's current ordinance regulates accessory building size using the definition of private garage. There was a need to establish a regulation in lieu of enforcing a definition as a general provision. The Board has been discussing amendments to the Zoning Ordinance related to accessory buildings that would improve existing regulations to meet defined goals for preserving the character of the community while balancing the need to keep the Village's residential market current. The proposed ordinance amendment is a result of several revisions and almost two years of review.

In the process of updating the ordinance, the Planning Board pursued a route whereby the Village has more control over size and design limitations. Borden commented on what the proposed ordinance accomplishes in that regard. The ordinance contains appropriate size limitations and improved definitions that will hopefully create improved site lines along neighborhood streets.

Borden clarified that this public hearing represents a unique situation in that, possibly due to a miscommunication, the Village Council has conducted the requisite public hearings on the final draft of the ordinance. The Planning Board will be conducting its public hearing today to meet statutory requirements. Borden remarked that there has been public input on the proposed ordinance during the time it has been reviewed and modified by the Planning Board.

The final draft includes the change made by Council to paragraph ‘i’: “Accessory buildings shall be designed so that no *exterior* wall length is greater than two-times the length of any other wall of that accessory building, unless otherwise approved by the Planning Board upon a finding of no adverse impact to the surrounding neighborhood.”

Byrwa questioned the procedure indicated in item ‘i’ of Section 22.08.100, which states that the Planning Board could approve wall length in lieu of the Zoning Board of Appeals.

Planning Board members discussed this paragraph. It was reviewed that this language was to provide the Planning Board and applicants with some flexibility in terms of design where it can be demonstrated that no harm would come to surrounding properties. It was not intended to reflect the need for a variance, which is a more stringent case to prove. It would not be a variance, appeal or interpretation, which are the standard responsibilities of the Zoning Board. It was the sense of the Planning Board to retain the wording in paragraph ‘i’ on the basis that the ordinance could be amended over time if there were problems with the Planning Board acting as the reviewing body.

Chairperson Jenson declared the public hearing open at 7:45 p.m.

Rukni Abboud of 18207 Gould Court had questions on the procedure for adopting an ordinance, which were addressed by Borden and Jensen.

No one else wished to be heard. The public hearing was closed at 7:49 p.m.

Motion by Westerlund, second by Tillman, that the Village Planning Board recommend Council approval of an Ordinance to Amend Chapter 22, the Zoning Ordinance for the Village of Beverly Hills. Ordinance #328 amends Section 22.04 Definitions of Accessory Building and Accessory Structure; it also amends Section 22.08.100 Accessory Buildings, Structures and Uses in Residential Zone Districts.

Roll Call Vote:

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

Motion passed (7 – 1).

PUBLIC HEARING ON PROPOSED ORDINANCE AMENDMENTS FOR ALTERNATE BOARD MEMBERS

Planning consultant Brian Borden stated that a public hearing will be held on ordinance amendments that will update both the Planning Board and Zoning Board of Appeals membership restrictions as specified in the Village ordinance. There have been changes to the Michigan Zoning Enabling Act over the last several years that impact the membership and makeup of both boards. Most importantly, communities have the ability to appoint alternate members to the Zoning Board of Appeals.

The amendment will allow for appointment of up to two alternate members to the Zoning Board of Appeals for situations when a quorum is not available or in the event of a conflict of interest issue. State law requires the affirmative vote of the majority of the membership in order to approve a variance. 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. This could place applicants or the Village in a difficult position. The ordinance amendment provides for alternate members, who could ensure that there is a full board or close to a full board.

The ordinance amendment also contains updated language that makes it discretionary and not a requirement for a Planning Board member to sit on the Zoning Board of Appeals. State law language mandates that the Planning Board member who sits on the ZBA cannot participate in hearing the same case at the Zoning Board level if they acted on the matter at the Planning Board level. An alternate would have to take his or her place.

Chairman Jensen opened the public hearing at 7:54 p.m.

Rukni Abboud of 18207 Gould Court requested and received clarification regarding the intent of the ordinance and the logistics of seating alternate members.

Council Member Jon Oen commented that there may be an instance where Zoning Board members may have to recuse themselves from voting due to a conflict of interest.

No one else wished to be heard; therefore, the public hearing was closed at 7:57 p.m.

Tillman, who sits on both the Planning Board and Zoning Board of Appeals, questioned the procedure to be followed by a dual member, which was addressed by Borden.

Motion by Tillman, second by Ostrowski, that the Planning Board recommend Council approval of Amendments to Chapters 21 and 22 of the Village Municipal Code with regard to appointments of duo and alternate members to the Planning Board and Zoning Board of Appeals.

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

DISCUSS SOUTHFIELD CORRIDOR

The Board discussed planning options for the Southfield Road corridor presented by Robert Gibbs and addressed how the Board would proceed with a plan for redevelopment of the area.

Tillman described new downtown areas that she visited in Boca Raton and Naples, Florida. She remarked that some of the development concepts were doable for Beverly Hills.

Wayne related that he spoke with Stephen Satovsky from the Beverly Hills Club, who was receptive to discussing a Southfield Road corridor plan with representatives of the Planning Board and Council. Gibbs had suggested that a redevelopment plan be discussed with business owners.

Jensen stated that the question is when and how to proceed with a Southfield Road corridor plan. The vision presented by Bob Gibbs is an exceptional concept that needs to be further investigated. A lot of what was proposed requires scrutiny before the plan is presented to the public. Jensen recommended referring the Gibbs plan to the Village planning consultant for a thorough examination of the proposal to determine what is feasible and to identify issues that could be problematic. LSL Planning would be asked to draft a response in terms of what makes sense and what needs further development. The Planning Board could devote several meetings to discussing the practical issues before developing a strategy on how to proceed. The next step would be to talk to property owners and receive their input.

Borden referred to discussion at the joint meeting of the Planning Board and Council regarding steps that should be taken prior to drafting ordinance language. A Planning Board work study committee could be created. The goal of LSL will be to prepare a memo that outlines a work program and cost estimates for review by the Planning Board. Westerlund suggested that the Planning Board develop its approach for a Southfield Road redevelopment program and submit it to LSL for analysis. A Planning Board work study committee could work on determining the scope of the overlay district with input from the planning consultant.

Borden suggested that LSL work together with Westerlund and present one program outline to the Planning Board. Westerlund concurred. He thought that the Planning Board should keep the momentum going on a corridor plan and convey that excitement to the public.

Borden related that the Gibbs presentation is available electronically. Due to the size of the file, it was recommended that anyone interested in receiving it should request that Dave Byrwa download it on their memory stick or copy the file onto a compact disk.

DISCUSSION OF INFORMATION FROM LSL ON NEIGHBORHOOD STUDY WEST OF SOUTHFIELD ROAD

Board members were reissued a memo prepared by Robert Cramer from LSL Planning based on his last presentation to the Board summarizing the results of the nonconforming lot study using GIS mapping to evaluate the impacts of various changes. The memo summarized options for implementation of the current nonconforming lot study for that 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. The memo includes the result of the study, recommendations for rezoning, and the reduction in nonconformities that would result if those recommendations are implemented.

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 without going down to the R-2A zoning district.

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. The nonconforming lots are not as concentrated as in the Priority A area. Borden said that rezoning could be done by neighborhood.

In answer to a comment, Borden said that this is not spot zoning for the reason that the zoning change would bring the lots within conformity; it would not create incompatible uses. There may be a question regarding the level of importance of making a change in the Priority B area. Borden affirmed that the goal was never to eliminate nonconformity but to reduce it to the greatest extent possible without harming the character of the neighborhood.

Borden asked for Planning Board discussion in terms of moving forward with this project. Upon Board direction, the maps will be updated and displayed via PowerPoint presentation at the next Planning Board meeting. If there are some areas that the Board wants to remove from potential rezoning, that can be done if it makes for a tighter presentation and a cleaner project. The Planning Board would then be ready to conduct a public hearing and go through the rezoning process.

Board members questioned the setbacks required for the current and proposed zoning districts and inquired about the westerly dividing line in the Priority A district. It was the sense of the Board that this is an acceptable level of nonconformity in the east side study.

The recommendation for Priority B was to rezone 50 parcels to R-1, which would leave one nonconforming lot. Jensen pointed out that the 50 nonconforming lots represent 20% of the 400 homes in the R-A zone district. That was determined to be an acceptable level of nonconformity in the east side study.

Westerlund proposed that the Board consider rezoning only those lots in the Priority B area that are contiguous property on one street because the entire neighborhood would benefit from the change. We could negate rezoning only 4-5 lots on a street.

Borden will have Robert Cramer prepare a couple of versions of zoning changes in the Priority B area. One version would show R-1 zoning on each of the 50 properties and another with R-1 zoning on the cul-de-sacs and longer roads off of Lahser where there is more concentration.

PLANNING CONSULTANT COMMENTS

Borden commended the Planning Board for a productive joint meeting with Council on February 11. Council appeared enthused about the work of the Planning Board. He observed good communication between the Planning Board and the legislative body.

PUBLIC COMMENTS

Rukni Abboud on Gould Court suggested that the Village impose term limits on members of Village boards and committees. When a member's term expires after three years, other people should be given an opportunity to serve the Village.

A few Board members commented on this suggestion. Freedman thought that the problem with term limits was that it would result in a lack of historical knowledge and continuity on a body. The Planning Board receives new ideas through public hearings held every time it is considering a new idea, ordinance, or site plan. The public is invited to meetings and are able to speak to this Board. Freedman is not in favor of term limits because there are no paid staffers available to Village boards to carry information forward.

Wayne made the point that there is generally not an abundance of candidates who apply for vacant positions on Village boards.

Westerlund commented that he has attended board meetings in other communities representing clients and has observed the longevity of members. He expressed the view that long term knowledge is good from a planning standpoint.

BOARD COMMENTS

Westerlund related that he viewed a recent Birmingham Planning Commission meeting when the topic was the triangle district where there is an overlay zoning district. He commented on the discussion of a property that was going to be in conflict with the overlay zoning and the tactics used by the applicant to prevail. Westerlund thought that the Planning Board should hold fast to its vision of an overlay district and not surrender to pressure.

Westerlund reported that the Parks and Recreation Board will be organizing the Memorial Day parade and carnival this year. He has been appointed to chair the parade committee. Westerlund asked members to pass the word on to friends and neighbors to volunteer and join in the Memorial Day parade.

Motion by Westerlund, second by Borowski, to adjourn the meeting at 8:56 p.m.

Motion passed.

David Jensen, Chair
Planning Board

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary