

Present: Chairperson Schafer; Vice-Chairperson Mercer; Members: Brady, Davis, Farris, Francis, Needham and Tillman

Absent: Verdi-Hus

Also Present: Building Official, Byrwa  
Council liaison, Berndt

Chairperson Schafer called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road

**APPROVE MINUTES OF ZONING BOARD MEETING HELD DECEMBER 8, 2008**

Motion by Needham, second by Mercer, that the minutes of a regular Zoning Board of Appeals meeting held on December 8, 2008 be approved as submitted.

Motion passed (8 – 0).

**CASE NO. 1210**

**Petitioner/Property:** John and Katie Carey  
17194 Kirkshire  
Sidwell #01-126-011

**Deviation requested:** To obtain a variance from requirements of Ordinance 22.08.150: 1) Allow 6-ft. fence; 2) Allow fence to go beyond the rear of house in side yard; 3) allow fence to be solid.

Byrwa displayed photographs of the existing fence. There is no fence permit on record with the Village; the house was built in 1948. The applicant is requesting three variances from the ordinance with respect to fence height, being 35% open to air and light, and the location of the fence. The solid stockade fence is 5'-6" ft. high and extends toward the front of the lot farther than the rear of the house.

Homeowners John and Katie Carey presented their case. Katie Carey stated that there was an existing chain link fence in this location when they purchased the house. The current fence was erected to replace the deteriorating fence. Shrubbery that had screened the fence was removed because the bushes were extremely high and difficult to maintain. The Careys were unaware that a permit was needed to replace and upgrade an existing chain link fence.

The homeowners submitted before and after photographs of the house and fence. John Carey affirmed that he discussed plans to replace the cyclone fence with his neighbors, many of whom submitted letters in support of the proposal.

Katie Carey stated that they have four grandchildren who play in the yard, and there is a wading pool in the summer. They have used the side yard portion of their yard for more than 25 years. Carey would like to keep the fence in its current location forward from the rear of the house for safety and security reasons. She mentioned that the location of the fence is not out of the

ordinary for the neighborhood. Many people have chain link fences in the same location. Carey added that the neighbor to the east would allow them to plant shrubs along the fence line.

Mercer commented on the number of new looking nonconforming fences on this street and elsewhere in this part of the Village. He questioned why there were not more people seeking variances from the ordinance.

Carey remarked that there are numerous fences in the area. She asked if there was a compromise that would allow them to retain most of the fence in some form to avert the financial and physical hardship of removing the entire fence.

Schafer stated that there are three variances that can be voted on separately or together. In order to grant a variance, the Board needs to hear reasons based on situations that are unique to the property. If a variance request is denied, it is possible for an applicant to bring back a lesser variance to the Board for consideration.

Board members discussed the case and outlined their concerns about the fence height, location in the side yard, and solid construction of the fence. It was suggested that bringing the fence down to a 4 ft. height would eliminate one variance. Moving a portion of the fence from the side yard to the rear yard would do away with a deviation. Adjustments could be made to the solid fence to bring it in compliance with the light and air requirement.

Carey stated that the bedrooms are on that side of the house and she wanted to keep the fence in its current location. The petitioners stated that they would cut the fence down to a 4 ft. height and modify the boards to be 33% open to air and light. They intend to plant shrubs in front of the fence. The Careys amended their petition to remove the variances for fence height and for a solid fence. They were informed that they should modify the fence within 30 days or weather permitting.

Schafer read letters received from area residents. Leslie Wogan of 17160 Birwood was not in favor of a deviation from the fence height limitation. The following property owners had no objections to the fence erected by John and Katie Carey.

Mary N. Asher	17233 Kirkshire
Leo Booth	17178 Kirkshire
Elizabeth Larson	17212 Kirkshire
Brad & Jean Clements	17211 Kirkshire
Richard & Beth Dickow	17193 Kirkshire
Tom Kuskowski	17177 Kirkshire

Kathleen Berwick on Kennoway Court thought that residents should be aware of the building codes and apply for a permit before erecting structures.

Schafer commented that the petitioners are disposed to amending their petition from what was originally requested. They are requesting a deviation with respect to the location of the fence to allow it to remain where it is, which is in line with the front of the house and in the side yard.

**Decision:** Motion by Mercer, second by Francis, to allow the fence to extend beyond the rear of the house into the side yard aligning with the front of the house in the same location as the previous fence that was replaced, conditioned upon the fence being lowered to a 4 ft. height and modified to be 35 percent open to air and light.

Brady commented on the legitimate security issues. Mercer recognized the improvement to the property and suggested that greenery be added to screen the fence.

Roll Call Vote:

Schafer	- yes
Tillman	- no
Brady	- yes
Davis	- yes
Farris	- yes
Francis	- yes
Mercer	- yes
Needham	- yes

Motion passed (7 – 1).

**CASE NO. 1211**

**Petitioner/Property:** Thomas Kuskowski  
17177 Kirkshire  
Sidwell # 01-128-004

Building Official Byrwa stated that the applicant is requesting a variance to the fence ordinance to allow the fence to extend beyond the rear of the house into the side yard. The Village has no record of a permit issued for the fence. The house was built in 1948.

The petitioner Tom Kuskowski explained that the modern looking aluminum fence was erected to replace a rotting chain link fence. The new front section has a gate that allows him to bring yard materials into the property. Kuskowski thought that the new fence was aesthetically pleasing and had an updated appearance; it is endorsed by his adjacent neighbor who shares the fence line with him. The fence was installed about five years ago. The 4' high fence meets ordinance dimensional and visibility requirements.

The adjacent neighbors Richard and Bethany Dickow of 17193 Kirkshire submitted a letter stating that they are in favor of the request for variance with regard to the position of the fence. The fence blends in with their side gate and also serves as an attractive, updated property divider between the homes.

Kuskowski stated that there are many homes in the area with similarly situated fences. He respectfully requested a variance to retain the fence where it stands.

Questions from Board members regarding the current and previous fence were addressed by the petitioner. Members questioned whether there should be changes to the fence ordinance that apply to the east side of the Village. It was pointed out that a previous fence existed in the same

location and that the position of the fence does not have an adverse affect on anyone else in the neighborhood.

Schafer referred to the letter from abutting property owners Richard and Bethany Dickow of 17193 Kirkshire, who were in favor of granting the variance request. A letter from Mary Asher of 17233 Kirkshire indicated that she has no objections to the variance request. Ms. Wogan of 17160 Birwood in not in favor of granting the deviation.

Katie Carey of 17194 Kirkshire commented that the fence looks better than many fences in the area.

**Decision:** Motion by Tillman, second by Needham, to approve the request for variance to allow the fence to extend toward the front of the lot farther than the rear of the house. The fence, which is consistent with what exists in the area, meets the 35 percent openness requirement, does not exceed four feet, and abuts the fence of the house next door.

Roll Call Vote

Tillman	- no
Brady	- yes
Davis	- yes
Farris	- yes
Francis	- yes
Mercer	- yes
Needham	- yes
Schafer	- yes

Motion passed (7 – 1).

**CASE NO. 1212**

**Petitioner/Property:** George Doskoris DDS  
32990 Pierce  
Sidwell# 01-201-001

**Deviation Requested:** 1) Deviation from Ordinance 22.24.010 requiring a 20-ft. setback in the rear space (east side of property) to 10 ft.; 2) Deviation from Ordinance 22.28.020 requiring one space for each 125 sq. ft. of gross floor area (17 parking spaces required, requests 12).

The property in question is located at the corner of Pierce Street and Fourteen Mile Road. The petitioner is proposing to construct a 1,050 sq. ft. addition to an existing 1,050 sq. ft. dental office building. An office zoned district requires a 20 ft. setback from the rear property line. The existing dental office has a 10 ft. rear yard setback; it is an existing nonconforming building. The applicant would like to construct the addition 10 ft. from the rear lot line to continue along the existing line of the building. A second variance would allow 12 parking spaces in lieu of 17 spaces required by the ordinance.

Byrwa displayed photographs of the building and site. He pointed out the existing dental office, the proposed 1,050 sq. ft. addition, and the adjacent office buildings. He mentioned that the petitioner has entered into a parking agreement with the Pastor of Ascension of Christ Lutheran Church across the street.

Schafer noted that the proposal for office expansion will go before the Planning Board for site plan review and approval. Byrwa explained that the request for variance is before the Zoning Board for a decision before the applicant would be required to submit detailed site plan drawings for Planning Board review.

Tillman stated that the Planning Board has had discussions regarding the need to amend the Village parking ordinance to be more consistent with National Parking Generation Standards as well as ordinances of surrounding southeast Michigan communities. The planning consultant has suggested that the Village's medical office parking standards were high.

The petitioner Robert Cliffe from MGA Architects was present along with Dr. Doskoris. Cliffe related that Dr. Doskoris currently leases a dental office on Southfield Road in Beverly Hills. He is talking to the current owner of the building at 32990 Pierce Street about purchasing the building and practice with the goal of combining the practices and owning the property.

The site plan drawing included with the submittal shows the proposed addition on the south side of the property. Cliffe described the site and the size of the existing building, noting that it is undersized for an updated dental office. It is proposed to increase the footprint of the building to allow the doctor to have six treatment rooms in the space in order to accommodate his current patient base plus the existing patient base. The configuration would provide auxiliary functions within the dental office and meet current dental standards and existing codes.

Dr. Doskoris proposes to create a building footprint that is approximately 2050 sq. ft. and renovate the interior of the existing building to allow for a more expanded practice on this site. There is a parking agreement with the church across the street that will provide parking for the doctor and his employees. Patients will have access to the parking on the site, which includes barrier-free access.

The current building extends to the vacated alley and is 10 ft. from the rear lot line. The applicant would like to extend that nonconformity in order to create a building footprint that is functional for a dental office. If the addition was required to adhere to the 20 ft. setback, it would not allow the property to be fully utilized for a proper dental office. The petitioner does not believe that the variance would impact any of the neighbors for the reason that the structure abuts an existing medical office. There are no entrances that would affect that medical office, and the existing curb cut would be used.

Architect Cliffe and Dr. Doskoris addressed questions from Board members on the layout of the dental office, staffing, parking requirements, and the building code that requires a fire wall. Cliffe stated that, based on his experience, 12 spaces for employees and patients would accommodate a dental office of this size. The plan presented represents the most efficient use of the space. There will be a firewall constructed on the wall abutting the office building to the south.

Schafer read a letter dated January 7, 2009 from the Pastor of Ascension of Christ Lutheran Church informing the Zoning Board of Appeals that the church will accommodate the request of Dr. George Duskoris for the use of their parking facilities Monday-Thursday from 10:00 a.m. – 7:00 p.m. as needed. In return, Dr. Duskoris has agreed to allow church members to use his dental office parking lot on Sundays. The letter indicates that both parties would review the agreement annually.

Dr. Duskoris stated that the office is currently not open on Friday or Saturday. He would go back to the church with a request if he decided to open on Fridays.

Schafer summarized a letter dated February 6, 2009 from LSL Planning, Inc., which indicates that parking for medical office use typically ranges from 4 to 6.5 spaces per 1,000 square feet in lieu of the 8 spaces that the Village requires. Schafer noted that the Village Ordinance requires less parking for banks or other business offices.

Schafer referred to a letter dated February 4, 2009 from Daniel Moshier, owner of the office building immediately east of the subject property. He has no issue with the setback variance as long as the actual usage does not encroach on his lot. He voiced an objection to the parking variance unless the building owner can prove he has access to adequate parking for his clients and has made arrangements for and intends to use such parking.

Katie Carey of 17194 Kirkshire expressed concern that business would increase or the church would rescind the joint parking agreement resulting in parking on the residential streets.

Cliffe responded that there was no reason to think that the church would change the agreement that benefits both parties. He maintained that 12 parking spaces would be adequate for a dental office of this size.

Schafer commented that there may have been a rationale for the Village's parking requirements for medical office use. He expressed concern with any private agreement that did not have the same perpetual duration as a variance granted by the Zoning Board. The Board is being asked to grant a variance that will continue and allow 12 parking spaces for a 2100 sq. ft. building.

Tillman stated that LSL Planning indicates that 4 to 6.5 spaces per 1,000 sq. ft. is typical for medical office use. This plan represents 6 spaces/1000 sq. ft. Not granting the variance may render the property unusable for a updated dental practice and result in a vacant building. Schafer responded that the ordinance would allow an 1,800 sq. ft. building for use as a law office without requesting a variance.

In answer to an inquiry, Cliffe stated that the plan is to update the existing aesthetics so that the existing structure and addition will appear to be built at the same time. The building will be all brick with the same gable profile. There will be extensive interior changes.

Bob Beardslee of 19834 Riverside observed that he frequents a dental office of similar size in Birmingham (3,000 sq. ft.) and there have never been four cars in the parking lot.

**Decision:** Motion by Mercer, second by Tillman, to grant two variances: 1) Allow a rear yard setback of 10 ft. in lieu of 20 ft. in keeping with the building line of the existing structure; 2) Grant a variance from the required 17 parking spaces to allow 12 parking spaces based on a letter from the Village Planning Consultant indicating that the request is in line with National Parking Generation Standards for a dental office. Both variances are based on a hardship due to the fact that anything less than the requested deviations would render the site unusable for a dental practice.

Roll Call Vote:

Brady	- yes
Davis	- yes
Farris	- yes
Francis	- yes
Mercer	- yes
Needham	- yes
Schafer	- no
Tillman	- yes

Motion passed (7 – 1).

**CASE NO. 1213**

**Petitioner/Property:** Robert Beardslee  
19834 Riverside Drive  
Sidwell #02-104-003

**Deviation Requested:** To obtain a variance from requirements of Ordinance 22.08.150: 1) allow 6 ft. fence; 2) Allow fence to go beyond the rear of house in side yard; 3) Allow fence to be solid.

Byrwa displayed photographs of the property and existing nonconforming fence. The fence is located on the right side of the garage. The house was built in 1949.

The petitioner Robert Beardslee stated that the fence was erected to replace a solid wooden fence that was installed in 1985. He did not think that replacing an existing fence of identical size and configuration would be subject to Village review. The new fence was installed to beautify the property. Beardslee stated that a fencing contractor erected the fence.

Beardslee asked the Board to consider the particular characteristics of his property. The house is located at the corner of the Beverly Hills bridge, and their west and north boundaries are the Rouge River and flood plain. The only person who can view this fence is the next door neighbor, whose home is at a lower elevation. The neighbors Dr. and Mrs. Carrillo have stated in a letter to the Board that the fence provides privacy for their bedroom located on the westerly side of their home. Both homeowners prefer having a privacy fence. Another characteristic to consider is the amount of traffic on Riverside Drive. Beardslee maintains that the privacy factor is more sustainable for his property than it is for most of the residents of Beverly Hills.

Beardslee commented on a hardship in terms of the costly fence materials. The design is such that any change in configuration would mean destruction of the \$8,500 fence.

Questions from Board members were answered by the petitioner. There is no side entrance from the house. The fence is located on the lot line and only extends to the end of the Carrillo house. The fence is screened by bushes in the summer. Beardslee provided some background information on the previous fence that existed when there was a pool in the backyard.

Katie Carey on Kirkshire thought that the fence looked great. As someone who erected a taller fence, she questioned the purpose of the ordinance. There is a large number of people who have erected higher fences, which she believes improves the look of the neighborhood.

Schafer read a letter to the Zoning Board from Dr. Antonio Carrillo, adjacent neighbor, who indicated that he and his wife are in favor of granting the relief requested by the petitioner to allow the fence to remain in place as it exists today. He noted that the fence location and size has been in existence during the entire time that they owned their house and provides privacy for their bedroom located on the westerly side of their home.

Schafer stated that the ordinance permits privacy screens. While this fence does not comport with a privacy screen, it is close in some respects. Schafer commented on the criteria of a privacy screen. He would consider granting a variance for a privacy screen on this property but would not approve a fence in the current location extending forward from the rear of the house.

Tillman concurred that it would represent less of an encroachment if the fence was set back to the rear lot line.

Schafer stated that the petitioner can ask for a vote on the petition as presented or ask for a lesser variance. Beardslee asked for a vote on his petition as submitted.

**Decision:** Motion by Brady, second by Davis, that the variance request be approved based on the fact that the fence is replacing a prior fence that had been in this location for a number of years and taking into account the position of the house on the property and privacy considerations outlined by the petitioner.

Roll Call Vote:

Davis	- yes
Farris	- yes
Francis	- yes
Mercer	- yes
Needham	- yes
Schafer	- no
Tillman	- no
Brady	- yes

Motion passed (6 – 2).

**PUBLIC COMMENTS**

Kathleen Berwick of Kennoway Court expressed disappointment that the Zoning Board granted all three variances to the petitioner in case No. 1213.

**ZONING BOARD COMMENTS**

Schafer reminded Board members that they should contact Dave Byrwa or clerk Lynn Talbert at the Village office at least the day before if they cannot attend a Zoning Board meeting.

Schafer welcomed new member Neil Davis. On behalf of the Zoning Board, Schafer thanked Jack Fahlen for his 35 years of service to the Village.

Needham suggested that information be placed in the Villager newsletter or website to inform residents about fence regulations and the need to obtain a permit for erecting fences and for other property improvements.

**BUILDING OFFICIAL COMMENTS**

Byrwa informed the Board that there will be a joint meeting of the Council and Planning Board on Wednesday, February 11 at 7:30 in the Council chamber. There will be a discussion of the Southfield Road Corridor Study and zoning incentives to redevelop Southfield Road.

Motion by Brady, second by Francis, to adjourn the meeting at 10:00 p.m.

Motion passed (8 – 0).

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

**Ellen E. Marshall  
Village Clerk**

**Susan Bernard  
Recording Secretary**