

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

Absent: Brady

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 FEBRUARY 9, 2009**

Motion by Tillman, second by Farris, that the minutes of a regular Zoning Board of Appeals meeting held on February 9, 2009 be approved as submitted.

Motion passed (8 – 0).

**CASE NO. 1214**

**Petitioner/Property:** Market Fresh  
31201 Southfield Road  
Sidwell #02-480-013

**Deviation requested:** Petitioner requests permission to display the following:

1. Flowers, plants, mulch, soil, lawn and leaf bags from 4-01-09 through 6-30-09
2. Firewood 7-1-09 through 12-31-09
3. Pumpkins, gourds, hay, plants from 8-14-09 through 11-02-09
4. Display Christmas décor – wreaths, grave blankets, roping from 11-1-09 through 12-31-09

Byrwa displayed photographs of the exterior of the Market Fresh building at the corner of Thirteen Mile and Southfield Roads. The Village Ordinance states that all displays and merchandise in the business district must be located indoors. Byrwa suggested that there is a need to clarify some of the issues that arose last year following Zoning Board approval of outdoor displays for Market Fresh. There was an issue with displaying bags of mulch along the Southfield Road side of the building, which was viewed as unsightly. The Board needs to be specific in listing locations and items that can be displayed outdoors.

Robert Eshaki, representing Market Fresh, was present with the intention of clarifying the request for variance. He asked that some of the display dates be amended, requested to add the outdoor storage of shopping carts in certain locations, requested to add corn stalks to the pumpkin, etc. display, and requested to add leaf bags to the display of plants, mulch and soil. Eshaki requested to utilize 6-8 parking spaces on the south side of the building to display flowers in the sunlight for four or five weeks.

Board members and the petitioner discussed the specific location of items to be displayed outdoors. Consideration was given to the amount of clearance needed for pedestrian traffic, aisle ways, and where to stack shopping carts. Questions from members were addressed by Byrwa and Esshaki.

**Decision:** Motion by Tillman, second by Davis, to approve a variance to allow specific outdoor displays at Market Fresh on the requested dates in the following locations:

- 1) 4-13-09 through 6-30-09: Display of flowers and bedding plants on the east side of the building and under the canopy next to the entrance, allowing 5 ft. clearance for pedestrians. The petitioner may use 7 parking spaces from 5-1-09 through 6-7-09 on the south side of the building to display flowers, mulch, soil, and lawn and leaf bags.
- 2) 7-01-09 through 12-31-09: Display firewood under the awning on the south elevation.
- 3) 8-14-09 through 11-02-09: Display pumpkins, gourds, hay, corn stalks, and plants (chrysanthemums) under the awnings on the south and east sides of the building leaving 5 ft. clearance for pedestrians on the sidewalk on the east side of the building.
- 4) 11-01-09 through 12-31-09: Display Christmas décor – wreaths, grave blankets and roping under the awning on the south side of the building.
- 5) Carts may be stored on the Southfield Road side of the building between the north end of Starbucks and the beginning of Premier Pet Supply in no more than two rows not extending past the northeast corner of the building. Carts may also be stored under the awning on the south side.
- 6) The height of a stack of mulch and the height of a stack of lawn and leaf bags must each be limited to 5 ft.; and the height of a stack of firewood must be limited to 6 ft.

Mercer commented on the importance of protecting the business owner and the residents.

Schafer stated that the Village's standards with regard to use variances are fairly stringent. It has been questioned whether or not variance requests to allow outdoor displays should be revisited every year. The Zoning Board has determined in the past that the use of this property without outdoor displays is not reasonable based on current expectations for a grocery store of this size. Also, the existing property and parking spaces are fixed. Thus, there is an undue hardship in terms of containing these display items in the existing structure. Further, a variance would not be contrary to the public interest - the petitioner is amenable to having the motion include standards that protect the public health, safety and general welfare. Finally, the situation is unique to the property in question.

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

Robert Eshaki thanked the Zoning Board members for their time and cooperation.

Schafer related that he received a letter from Gilbert Silverman of Beacon Hill Professional Mall indicating that they have no objection to the petitioner's request for variance for the uses submitted by Market Fresh.

**CASE NO. 1215**

**Petitioner/Property:** Starbucks  
31201 Southfield  
Sidwell # 02-480-013

**Deviation requested:** Petitioner requests permission for six outdoor tables with three umbrella stands and 12 chairs on the east porch in front of Starbucks from 4-1-09 to 10-1-09.

Byrwa displayed photographs of the area outside of the Starbucks store on Southfield Road where tables, umbrella stands and chairs would be located. He observed that the guardrail is in need of repair and maintenance. He suggested approving the variance subject to repairing and painting the guardrail. There have been no complaints about the tables and chairs in front of Starbucks in past years.

Tim Davis-Daunt, shift supervisor from Starbucks, requested the use of six tables, 12 chairs and three umbrellas in the area in front of the store. He affirmed that the tables and chairs are for the use of customers with no sales taking place outside. Daunt understood that Starbucks is a tenant of Market Fresh. He asked if outdoor maintenance is required by Market Fresh or Starbucks. Schafer responded that the petitioner should check the lease with Market Fresh.

A letter was received from Gilbert Silverman of Beacon Hill Professional Mall indicating that they have no objection to the petitioner's request for variance for the uses submitted by Starbucks.

**Decision:** Motion by Mercer, second by Verdi-Hus, to approve the request for variance from Starbucks to place six outdoor tables, 12 chairs and three umbrella stands on the east porch in front of the store from April 1, 2009 to October 1, 2009 conditioned upon the repair and painting of the guard rail within 30 days.

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

**PUBLIC COMMENTS**

None

**ZONING BOARD COMMENTS**

Tillman stated that she has raised the issue with the Planning Board as to whether the ordinance should allow outdoor seasonable displays for a fee in lieu of the ZBA granting use variances. It is questionable whether this is the type of hardship case that should come before the Zoning Board.

**BUILDING OFFICIAL COMMENTS**

Byrwa anticipated scheduling a Zoning Board meeting next month for a case involving a resident who erected a satellite dish in his front yard. Further, the Deli restaurant on Southfield Road may be requesting to put tables and chairs outdoors.

In response to an inquiry, Byrwa outlined an ordinance amendment passed by Council at its April 7, 2009 meeting regarding accessory buildings, structures, and uses in residential zoned districts. Council set a public hearing for May 19, 2009 on an ordinance amendment regarding alternates to the Planning Board and Zoning Board of Appeals.

Motion by Tillman, second by Needham, to adjourn the meeting at 8:25 p.m.

Motion passed (8 – 0).

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

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

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