

Present: Chairperson Schafer; Members: Berwick, Brady, Farris, Francis, and Tillman

Absent: Davis, Mercer, Verdi-Hus

Also Present: Village Manager, Wilson  
Council Liaison, Berndt

Chairperson Schafer called the meeting to order at 7:35 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road

**APPROVE MINUTES OF ZONING BOARD MEETING HELD JULY 13, 2009**

Motion by Farris, second by Francis, that the minutes of a regular Zoning Board of Appeals meeting held on July 13, 2009 be approved as submitted.

Motion passed (5 – 0).

Chairperson Schafer informed the audience that a dimensional variance can be granted with five affirmative votes of the Board. When there is less than a full compliment of the nine-member Board in attendance, the petitioners are permitted to table their case to the next meeting when there may be a more fully constituted Board. This issue will hopefully be avoided when two alternate members are appointed to the Zoning Board of Appeals by the Village Council.

**CASE NO. 1216**

**Petitioner/Property:** Vincenzo Iavicoli  
20605 W. 14 Mile Road  
Sidwell #03-202-004

**Deviation Requested:** A variance to allow two satellite dishes to remain in the front yard.

**Village Ordinance: 22.08.100 Accessory Buildings, Structures and Uses in Residential Zone Districts:** a. No accessory buildings, structures, or uses shall be erected in the front or required side open space or within permanent easements.

Schafer reviewed that Case No. 1216 was initially heard in May. It was tabled at that time, in part, to consult with Village legal counsel regarding whether the Board is empowered to place a durational limitation on a dimensional variance request. Attorney Tom Ryan stated that it was his understanding of the law that case law allows conditions to be placed on a non-use variance. A durational limitation is not a condition, but in essence goes to the heart of whether a variance should be granted. It was the opinion of Ryan that a durational limitation may not be placed on a non-use variance by the Zoning Board of Appeals.

Schafer also spoke with Village planning consultant Brian Borden regarding this issue. Borden thought that attempting to attach a time limitation on the variance request went to the heart of whether a matter was a practical difficulty with respect to the property in question as opposed to the homeowner's unique situation.

Wilson displayed photographs of the house and property on 14 Mile Road west of Evergreen Road and identified the two satellite dishes located in the front yard. The bushes in the front yard

screen the view of the satellite dishes from the road at this time of year. There is high vegetation located on the property that prevents the antennas from being situated in the rear yard or on the roof.

Schafer stated that the Village ordinance provision 22.80.100 states that no accessory buildings, structures, or uses shall be erected in the front or required side open space or within permanent easements. It was the determination of the building official that the satellite dishes represented an accessory structure and were not permitted.

The petitioner Vincenzo Iavicoli stated that the reason that he subscribed to Dish Network and had the antennas installed was because his family wanted to receive Italian television channels that were not available through Comcast cable television. Dish Network technicians did a comprehensive review of the site prior to determining that the front yard location was the only area where the satellite signal was not blocked by trees.

In answer to an inquiry from Farris, Iavicoli affirmed that the dishes could not be placed on the roof due to the high vegetation.

Berwick commented that the lilac bushes in the front yard are deciduous plants that are green for only six months out of the year. She observed that some of the bushes screening the dishes are invasive species including Buckthorn. Berwick is opposed to satellite dishes being located in a front yard; she noted that there is Italian television available online.

Lynn Talbert of 30385 Woodhaven suggested replacing the existing bushes with evergreens to screen the satellite dishes in the front yard. Mrs. Iavicoli responded that they are renting the house and would need permission from the property owner.

Tillman questioned whether a communication was submitted from the dish company stating that the front yard was the only location where the satellite transmission could be received.

Schafer suggested that the Board should first decide if this is an appropriate use and structure for this property and, if so, it can consider conditions of approval. The key question is whether the Board should be granting a variance in this situation. Specifically, is the ability to receive a particular provider's television service a basis for granting a variance. Schafer did not believe that the petitioner's desired use of a particular channel should be considered a hardship on the basis that it is something that the homeowner wants to do; it is not tied to the land. He did not think that it was within the purview of this Board of limited powers to grant the variance.

Schafer reminded the petitioner that five of the six members present would have to vote in favor of granting the variance. The petitioners may request that their case be tabled before the vote.

**Decision:** Motion by Tillman, second by Brady, to approve the variance requested to allow two satellite dishes to remain in the front yard for the reason that enforcement of the ordinance creates peculiar or exceptional practical difficulties.

Roll Call Vote:  
Motion failed (6 – 0).

The petitioner will have to remove the satellite dishes from the front yard within 30 days after Board certification of the minutes of this meeting, which would be on October 14, 2009 assuming that the Board meets in September. The petitioner may also submit a different variance request.

**Case No. 1218**

**Petitioner & Property:** Constantine Carstea (Detroit Deli)  
31645 Southfield Road  
Described as 99-00-007-001

**Deviation requested:** Petitioner requests to erect two wall signs, one on the south side (32 sq. ft.) and one on the front (east) side (45 sq. ft.) of the building.

**The Village Ordinance:** Section 22.110: 4.a. states that one wall sign per business is permitted, not to exceed two sq. ft. of area for each one linear foot of building frontage. In no event shall the total area of wall sign per business exceed 120 sq. ft.

Wilson stated that the petitioner is requesting to erect two wall signs on the building. The front of the store faces Southfield Road (east). The ordinance permits one wall sign for the business not to exceed 58 sq. ft. The owners could choose to erect a wall sign either on the east or south side of the building.

Wilson displayed pictures of the building and site. There is an existing monument (ground) sign near Southfield Road. The petitioner has indicated that the ground sign is not visible driving northbound on Southfield Road. The trees on the property of the Beverly Hills Club block the deli's ground sign from northbound traffic.

The petitioner submitted drawings showing a proposed wall sign on the south side of the building (32 sq. ft.) and another wall sign (45 sq. ft.) on the east side facing Southfield Road, where there is an entrance to the store. Either sign could be approved without a variance, but the municipal code permits only one wall sign per business. It was noted that Detroit Deli is the only tenant occupying the building currently. Future tenants of the vacant space could also erect a wall sign.

The petitioner Constantine Carstea stated that, although the owners have advertised the business, people who come into the deli say that it was difficult to find. People traveling north miss the store due to the lack of visibility of the ground sign. The owners are requesting an additional sign on the south side of the building so that people coming from the north would be able to locate their operation. The building is set back from the road and existing trees screen the front of the store creating a hardship. Carstea would be willing to remove the Detroit Deli signage from the ground sign if the variance was granted. He is asking for a variance that would help them stay in business in a community that needs a deli.

Comments and questions from Board members were answered by Carstea. Members were sensitive to concerns expressed by the business owner and they wanted the Detroit Deli to

succeed in the community. It was acknowledged that the trees were screening his sign from the north.

The point was also made that every business tenant or owner would like to have more signage than permitted. The uniqueness of this situation was questioned. It was suggested that there may be more value in placing the wall sign on the side of the building facing south other than the customary location on the front of the store. The owner would be entitled to one wall sign not to exceed 58 sq. ft.

Carstea stated that an illuminated sign on the east/Southfield Road side of the building would be visible in winter months.

Schafer commented that he did not see the necessity to grant a variance to allow two signs for this business and not allow the same variance to other retail tenants along Southfield Road.

Berwick commented that the business owner could place signage in the interior of the front window if it complies with ordinance requirements.

Tillman thought that signage was important but the amount and size of signage should be tempered with a concern about sign pollution, which could decrease property value.

Debra Dalaly, who works at Detroit Deli, remarked that most of their customers comment on the poor visibility of the store. The signage issue has affected their business. She made a case for allowing a wall sign on the south side of building to provide visibility of the store in the summer months.

Lynn Talbert of 30385 Woodhaven expressed the view that a sign on the south side of the building is needed.

Stephen Satovsky from the Beverly Hills Club stated that the owners of the Club want the Detroit Deli to succeed. He objected to the second sign facing south for the reason that additional signs for other potential tenants of that building could result in visual pollution. Satovsky suggested that the deli owner erect an illuminated wall sign on the front (east) side of their business so it can be seen going north or south. He added that the Beverly Hills Club owners would be willing to pay for removal or trimming of the trees planted near Southfield Road to provide better visibility for the Detroit Deli and the Beverly Hills Club.

Manager Wilson will look into the feasibility of trimming or taking down trees along the right-of-way. It was noted that the landscaping along Southfield Road was part of a Village beautification project.

Dalaly commented that other businesses along Southfield Road such as Bed, Bath & Beyond, McDonalds, Beverly Hills Grill and the Beverly Hills Club are established businesses that have recognition. The Detroit Deli is a new business that is not well known or easy to find.

Schafer stated that, in order to grant a variance, a majority of the nine member Board has to be convinced that enforcement of the letter of the law as it applies to the property in question would result in an exceptional practical difficulty. Schafer did not see this as a unique case and thought there were other options for the petitioner to identify his business. The Ordinance allows 58 sq.

ft. of signage on one side of the building. Schafer noted that the total square footage of both signs would exceed the permitted square footage for this business by 19 sq. ft. He thought that there may be lesser options either in terms of no variance or a lesser variance than requested to meet the goals of the applicant.

Brady commented that the owners could erect up to 58 sq. ft. of wall sign on the south side of the building without a variance. That would mean that they could not erect a wall sign on the front of the building facing Southfield Road. The monument sign is located in front of the building, and the ordinance allows limited signage in the front window. Brady thought that this might solve the visibility issues.

**Decision:** Motion by Tillman, second by Brady, to approve the request for variance to allow two wall signs for the Detroit Deli, one on the south side (32 sq. ft.) and one on the east or front (45 sq. ft.) of the building with the total signage exceeding the maximum wall signage allowed by the ordinance.

Roll Call Vote:

Farris - no  
Francis - no  
Schafer - no  
Tillman - no  
Berwick - yes  
Brady - yes

Motion failed (4 – 2).

**PUBLIC COMMENTS**

Council liaison Berndt informed the Board that the Village office has not received any applications for the two alternate positions on the Zoning Board of Appeals to date.

**ZONING BOARD COMMENTS**

Schafer asked that Board members contact Lynn Talbert at the Village office in advance of the meeting if they cannot attend a regularly scheduled meeting. If a quorum is not available for a meeting date, that meeting could be canceled in advance.

Motion by Tillman, second by Brady, to adjourn the meeting at 8:55 p.m.  
Motion passed (6 – 0).

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

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

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