

Present: Vice Chair Mercer; Members: Berwick, Brady, Davis, Donnelly, Francis, Tillman and Verdi-Hus

Absent: Farris and Schafer

Also Present: Village Manager, Wilson  
Council Liaison, Berndt

Vice-Chair Mercer called the meeting to order at 7:35 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road. Alternate Zoning Board of Appeals member William Donnelly took a seat at the table.

**APPROVE MINUTES OF ZONING BOARD MEETING HELD JANUARY 11, 2010**

A correction was made on page 3, first paragraph, line 3, to add ‘to’ before ‘do’.

Motion by Tillman, second by Brady, that the minutes of a regular Zoning Board of Appeals meeting held on January 11, 2010 be approved as amended.

Motion passed (8 – 0).

**CASE NO. 1222**

**Petitioner/Property:** Terrence Robinson  
One Brady Lane  
TH24-10-102-048

**The Village Ordinance: Village Fence Ordinance 22.08.150:** Requirements in Single Family Residential Districts: 1) Fences with a vertical surface area that is at least 35% open to air and light; 2) Fences are not permitted in side yards that do not abut roads or streets; 3) A fence in a rear yard shall not exceed 48 inches in height above grade and shall not extend toward the front of the lot farther than the rear of the house except when used to enclosed a commonly used side door entrance.

**Deviation Requested:** Petitioner requests: 1) Solid fence; 2) Side yard placement of fence the length of the driveway; 3) 6-ft high fence for privacy.

Manager Wilson displayed photographs of the house at One Brady Lane and various views of the existing fence on the property. He pointed out the location of 13 Mile Road to the north and Brady Lane to the south. The Village considers the front of the house to be facing north toward 13 Mile Road. Access to the home is off of Lahser Road from Brady Lane.

The issue is that a fence has been erected that is not in compliance with the Village Fence Ordinance. The fence height is 6 feet in lieu of the 4 foot maximum allowed height; the fence is not 35% open to air and light; and the fence extends toward of the front of the lot farther than the rear of the house. Wilson mentioned that there is a berm that exists on the north side of the property between the house and 13 Mile Road, which serves to block the view of the fence going eastbound on 13 Mile Road.

The petitioner submitted a letter from Joanie Wood of 21705 W. 13 Mile Road, abutting property owner to the east, whose house faces 13 Mile Road. She had no objections to the existing fence noting that it added privacy to both of their lots. She asked that the fence be stained. Another letter was received from Lorrie and Philip Keila on 2 Riverbank Drive. They indicated their support of the fence on the basis that it enhances the property and screens the above ground pool located on the adjacent property.

Mercer explained that the applicant would need five affirmative votes from Board members in order for the variance to be granted.

Terrence Robinson stated that he should have checked with the Village before erecting the fence. He did obtain the adjacent neighbor's approval of the fence location prior to construction of the fence. Landscaping improvements and fence installation were performed by the same contractor. The fence was set back 80 ft. from 13 Mile Road and 60 ft. from Brady Lane. It was installed with the more finished appearance facing the neighbor's property. The fence will be professionally stained in the spring if the variance is granted.

Questions from Board members were addressed by the petitioner. Robinson indicated that the house was built in 1940. He purchased the home in September of 2009. When Westwood Common was developed in 1996, it incorporated his property as part of that development. Access to 13 Mile Road was closed, and a berm was constructed. The property is accessed from Brady Lane and the address was legally changed to One Brady Lane. His front yard facing Brady Lane abuts the adjacent neighbor's back yard where there is an above ground swimming pool, shed, and detached garage. Robinson maintains that the fence screens the view from his front yard and enhances his property.

Wilson remarked that the Village considers the front of the house to be 13 Mile Road, which was the original orientation of the structure. The entrance to the house was from 13 Mile Road. The garage is accessed from what the Village considers to be the front of the house.

Board members discussed the variances requested and potential alternatives to the fence as it was installed.

**Decision:** Motion by Tillman, second by Brady, to approve the request for variance and allow the fence to remain as installed based on practical difficulties in that the petitioner's property faces Brady Lane and the abutting property faces 13 Mile Road. The property to the east has an above ground swimming pool, shed and unattached garage in its rear yard adjacent to the petitioner's front yard.

Roll Call Vote:

Tillman - no  
Verdi-Hus - no  
Donnelly - yes  
Berwick - no  
Brady - yes  
Davis - yes  
Francis - yes  
Mercer - no

Motion failed (4 – 4).

Mercer informed the petitioner that he has the right to come back before the Board with an alternate proposal that is significantly changed from the original request for variance.

**PUBLIC COMMENTS**

None

**ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON**

Mercer related that Todd Schafer sent him an email stating that he would serve as chairperson again if nominated and elected unless another Board member wanted the position.

Mercer opened the floor to nominations for chairperson. Brady nominated Todd Schafer for the office of chairperson of the Zoning Board of Appeals. Davis nominated Tim Mercer as chairperson. Mercer respectfully declined the nomination. There were no further nominations. Todd Schafer was elected by acclamation.

The floor was opened to nominations for vice-chairperson. Berwick nominated Tim Mercer to the office of vice-chairperson of the Board. There were no further nominations. Tim Mercer was elected as vice-chair by acclamation.

**ZONING BOARD COMMENTS**

In response to previous comment from petitioner Terrence Robinson, Berwick commented that she viewed the fence erected at One Brady Lane and still did not vote in favor of granting a variance. Davis and others commented on the unique situation with respect to tonight's case in that the petitioner's front yard abutted his neighbor's backyard.

Mercer thanked Mr. Donnelly for sitting in as an alternate member of the Zoning Board of Appeals.

**MANAGER COMMENTS**

Wilson stated that the Zoning Board of Appeals will be meeting on April 12 to consider the annual applications submitted by Market Fresh and Starbucks for outdoor displays/tables. He informed the Board that consideration will be given to an ordinance revision to allow the outdoor sale of seasonal items and outdoor seating to be approved in house as an administrative procedure. He added that there are enforcement issues to be considered. This ordinance update will be reviewed by LSL Planning and Attorney Ryan.

Council member Berndt thanked the Board members for their good work. He encouraged members to bring their ZBA handbooks to the meetings for reference purposes.

Motion by Tillman, second by Brady, to adjourn the meeting at 8:37 p.m.  
Motion passed (8 – 0).

**Tim Mercer, Vice-Chair**  
**Zoning Board of Appeals**

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

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