

Present: Chairperson Schafer; Vice Chair Mercer; Members: Berwick, Brady, Donnelly, Farris, Francis, Tillman

Absent: Davis and Verdi-Hus

Also Present: Village Manager, Wilson
Council Liaison, Berndt

Chairperson Schafer called the meeting to order at 7:33 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 MARCH 8, 2010

A change was made on page 3 under ‘Zoning Board Comments’, paragraph one to add “In response to previous comment from petitioner Terrence Robinson,” before the first sentence.

Motion by Berwick, second by Farris, that the minutes of a regular Zoning Board of Appeals meeting held on March 8, 2010 be approved as amended.

Motion passed (8 – 0).

CASE NO. 1223

Petitioner/Property: Market Fresh
31201 Southfield Road
Sidwell 99-00-004-003

Deviation requested: Petitioner requests permission to display the following:

1. Flowers, plants, mulch, and soil from 4-22-10 through 6-30-10; utilizing 10 parking spaces for display
2. Mums, pumpkins, hay, gourds, plants, corn stalks, firewood 8-16-10 through 11-02-10
3. Christmas décor, wreaths, grave blankets, roping, firewood 11-11-10 through 1-3-11

Nick Karmo, store manager for Market Fresh, requested a variance from the ordinance in order to display and sell seasonal items outside of the store on the southwest and northwest sides of the building. He stated that the products listed in the appeal can only be displayed outside; there is no space inside the store for these items.

Schafer referred to the decision of the Zoning Board of Appeals relative to the 2009 request for outdoor displays from Market Fresh. The motion limited the number of parking spaces that could be involved and specified the areas for display. Karmo was asked if there were any differences in his petition this year.

Karmo explained that Market Fresh is requesting the use of 10 parking spaces to display plants and flowers for the first two weeks with the use of spaces decreasing to 8, 6, 4 and zero as the product supply is reduced and the season progresses. There will be a space between the parking blocks and the building for pedestrian traffic. Parking lot spaces will not be used for any other sales throughout the year. The other change from last year's request will be elimination of outdoor sales of firewood and lawn and leaf bags.

Manager Chris Wilson related that the building inspector monitored the use of parking spaces for plant sales as well as traffic flow last year. There was good communication with store management. The Code Enforcement Officer will oversee outdoor sales this year to ensure that regulations are upheld.

Questions from Board members were addressed by Karmo. Schafer related that the Village Council may consider an ordinance amendment to regulate and permit outdoor sales and seating in the business district, which would eliminate the need for annual ZBA approval of this variance request.

Schafer stated that it has been determined by the Zoning Board in previous years that the use of this property without outdoor displays is not reasonable based on expectations for a grocery store in today's market environment. The existing property and parking spaces are fixed with no room for expansion. Therefore, the Board views this as an undue hardship in terms of trying to contain displays in the existing structure. It has been found that the variance is not contrary to public interest. The petitioner is amenable to a motion that includes standards that improve the public health, safety and general welfare in terms of limiting the height of displays and ensuring that the use of parking spaces does not intrude into the general flow of traffic.

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

- 1) 4-22-10 through 6-30-10: 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 10 parking spaces for not more than four weeks on the south side of the building to display flowers, mulch, and soil. After four weeks, the number of parking spaces will be decreased according to the petitioner's needs.
- 2) 8-16-10 through 11-02-10: 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.
- 3) 11-11-10 through 1-3-11: Display Christmas décor – wreaths, grave blankets and roping under the awning on the south side of the building.

4) 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.

5) The height of a stack of mulch must be limited to 5 feet.

6) The display on the south side of the building will provide an aisleway to allow for ingress and egress of customers and for use of carts.

Roll Call Vote:

Motion passed (8 – 0).

CASE NO. 1224

Petitioner/Property: Starbucks

31201 Southfield

Sidwell # 99-00-004-003

Deviation requested: Petitioner requests permission for 6 outdoor tables with 3 umbrella stands and 12 chairs on the east porch in front of Starbucks from 4-23-10 to 11-30-10.

Wilson commented that this request is similar to the petition approved last year for umbrella tables and chairs to be placed outside of Market Fresh.

Katina Lowe from Starbucks requested the use of patio furniture outside of the store for the reason that customers like to sit outdoors in nice weather; there is limited seating inside the store. Lowe asked that the petition be amended to allow the furniture to be placed outside on April 13. It was clarified that the request is for three umbrella stands with umbrellas.

The guard rail was repaired and repainted last year as a condition of approval. The guard rail could use repainting this year.

Decision: Motion by Mercer, second by Brady, to approve the request for variance from Starbucks to place six outdoor tables, 12 chairs and three umbrellas with stands on the east porch in front of the store from April 13, 2010 to November 30, 2010 conditioned upon the painting of the guard rail within 30 days.

Roll Call Vote:

Motion passed (8 – 0).

PUBLIC COMMENTS

Phil Keila of 2 Riverbank Drive, President of the Westwood Commons Homeowners Association, appealed to the Zoning Board for reconsideration of a case that was brought before the Board at its March 8, 2010 meeting. Case No. 1222 submitted by Terrence Robinson of One

Brady Lane requesting a variance to allow a nonconforming fence to remain as installed was denied because the motion did not receive five affirmative votes.

Keila related why he thought the Board made an incorrect finding in this instance. The owners of three contiguous properties are in favor of the fence for the reason that it is attractive and provides much needed screening. The Woods at 21705 W. 13 Mile Road, located just east of the property in question, do not object to the project and indicated that it provides privacy for their lot. The Keilas located south of the petitioner submitted a letter to the Village supporting the project. Phil Keila presented a letter to the Board from the Gillarys at 3 Riverbank Drive indicating their support of the fence.

Keila informed the Board that he canvassed the Westwood community and reported that all residents have the same reaction, which is that the structure is appealing in appearance and does a great job of screening a busy backyard. The Woods' backyard contains a shed, above ground pool, and a detached garage. Keila was present hoping that there was a way for the Board to reconsider the matter and view the structure as a privacy screen. He asked that the Village allow Mr. Robinson to retain a well-crafted privacy screen.

There followed discussion between Board members, Mr. Keila and the petitioner Mr. Robinson on the request to reconsider the motion in conjunction with Case No. 1222. Amending the request for variance to consider the structure as a privacy screen was discussed in some detail.

Schafer commented on the courses of action available to the petitioner. A Board member who voted against the motion on Case No. 1222 could make a motion for reconsideration before the March meeting minutes are certified at the end of today's meeting. If a motion to reconsider passed, the Village would have to re-notice the case. Schafer stated that the petitioner has 30 days after today's meeting to appeal the decision of the Board to Circuit Court. The petitioner may also submit a new petition that is materially different from the request previously presented and request a variance on that basis. A petitioner could request an ordinance interpretation

Mercer reviewed that Case No. 1222 was presented as a variance from the fence ordinance. A privacy screen has different standards from a fence. He commented on the option available to request a lesser variance or request a variance for a privacy screen. Mercer was willing to make a motion to reconsider the March 8, 2010 motion, but said that his vote would be the same. He would only consider approving a petition that included some material differences from the original proposal.

The petitioner Terry Robinson said that he would consider coming before the Zoning Board of Appeals with a proposal that would alter the existing fence and request a variance to keep the structure as a privacy screen. Schafer affirmed that Mr. Robinson could pay a fee and come back before the Board with a materially different request.

ZONING BOARD COMMENTS

Board members commented on the request of Phil Keila to take action to reconsider its decision on Case No. 1222. It was suggested that the petitioner Terrence Robinson could review the

Village ordinances, discuss a proposal with Village Administration, and consider submitting a new petition that comes closer to meeting ordinance requirements.

Phil Keila stated that his intent was to determine if there was a way that the structure erected by Mr. Robinson could be retained as a privacy screen. It was indicated that the petitioner could come back before the Board with a proposal that was materially different from the petition previously submitted. He understood that the will of area residents is not a material difference. Keila thought that it would simplify the process and be in everyone's best interest if Mr. Robinson came back with a substantially different request. Keila withdrew his request for reconsideration of the motion on Case No. 1222. Mr. Robinson has indicated that he will appear before the Zoning Board of Appeals again based upon the advice that he received today.

Amru Meah at 30815 Billington Ct. questioned the grounds for reconsideration of a variance request and suggested that the Board outline how the petitioner should proceed.

Manager Chris Wilson commented on the technicalities of a motion to reconsider and particular issues with a ZBA case due to notification requirements. He suggested that the best course of action in this case would be for the petitioner to submit a modified variance request along with some alternations to the structure in place to make it more compliant with the privacy screen ordinance.

MANAGER COMMENTS

Wilson reported that there were no cases filed to date for the May 10 Zoning Board meeting. There may be a meeting next month if a petition is submitted by Mr. Robinson before the deadline for notification.

Motion by Brady, second by Mercer, to adjourn the meeting at 8:30 p.m.

Motion passed.

Todd Schafer, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary