

Present: Chairperson Schafer; Vice Chairperson Tillman; Members: Brady, Donnelly, Francis, Meah, Meuller and Verdi-Hus

Absent: Berwick and Rass

Also Present: Village Manager, Wilson
Council Liaison, Mercer

Chairperson Schafer called the meeting to order at 7:32 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

APPROVE MINUTES OF ZONING BOARD MEETING HELD NOVEMBER 8, 2010

Motion by Meah, second by Donnelly, that the minutes of the regular Zoning Board of Appeals meeting held on November 8, 2010 be approved as submitted.

Motion passed (8 – 0).

CASE NO. 1228

Petitioner: Sundance Inc. (on behalf of Taco Bell)
7914 Kensington Ct., Brighton, MI

Property: 31305 Southfield Road, described as 99-00-006-606

Petition: Petitioner requests a variance from the number of parking spaces required by the Village Zoning Ordinance.

Village Ordinance: Schedule of Regulations, 22.28.020 OFF-STREET PARKING REQUIREMENTS (d) (12c) Fast food restaurant. One space per 30 sq. ft. of usable floor area.

Manager Wilson stated that Administration has had contact with the petitioner regarding the site plan for a new building on the Taco Bell site. A parking issue arose at the beginning of the discussions when it became apparent that, instead of remodeling the existing building, the structure would be demolished and rebuilt. This site plan came before the Zoning Board in September of 2010 with a request for a front yard setback (Case # 1227). A variance was approved from a 35 ft. front open space requirement in a business district to 21 feet.

The existing Taco Bell structure did receive a variance in 1983 that allowed it to operate with a total of 20 parking spaces. At that time, the minimum required parking spaces per the ordinance for that structure would have been 25 spaces. In the interim, the Village's parking code has changed. As it is written today, a restaurant operating at that amount of square footage would require 46 parking spaces. When the variance was granted in 1983, the site was within 4-5 spaces of meeting the required parking. Based on the current parking code, the site plan contains about half the spaces required by the parking code.

The petitioner indicates that there is a hardship due to the size of the lot. The property is bounded to the north by the 31333 office building. Taco Bell representatives sought a cross parking arrangement with the owner of the adjacent building to no avail. As it stands now, the petitioner has a variance to build a structure on the site, but the site plan does not meet the Village's parking requirement. In response to an inquiry, Wilson indicated that the Planning Board is aware of the Taco Bell project and related ordinance issues, but the site plan has not been officially before the Board for review.

Wayne Perry with Desine Inc., civil engineers, stated that Taco Bell has been located in Beverly Hills since 1981. It has operated successfully on the site with no difficulties since the 1983 variance request was granted by the Zoning Board of Appeals. The current building with 1,650 sq. ft. of floor space and 22 parking spaces has accommodated the needs for this restaurant for almost 30 years. The new building will increase to 1,858 sq. ft. The area that is being expanded is primarily restroom and kitchen area in order to comply with current health, ADA, and safety codes. There will be only four additional seats in the dining room. To comply with current parking standards, the existing 1,650 sq. ft. restaurant would have to shrink to about 730-800 square feet.

Perry commented on attempts made to either purchase property for parking or acquire a cross access parking agreement from the owner of the adjacent 31333 building. Their efforts were not successful. At this point, the petitioner has no other option except to utilize the site as it has been operating successfully since 1983 with 22 parking spaces. Adequate stacking is being provided for the drive-through lane. Perry noted that the business model for Taco Bell focuses more on drive through and pick up traffic than it does on coming in and sitting down. The improved capacity of the kitchen will expand the ability to service drive-through traffic more efficiently.

Perry maintained that the site is physically constrained with no ability to expand. It is not possible to successfully operate a restaurant in the 700-800 sq. ft. range. The petitioners are requesting a variance to allow Taco Bell to continue its operation as it has been doing for over 25 years.

Wilson remarked that the definition of usable square footage varies from community to community. Beverly Hills has taken a broad definition of usable floor area when it comes to parking requirements. The Village has exempted storage areas and freezer square footage at times from usable floor area but has not excluded kitchen space from parking requirements. Wilson remarked that the increased square footage for the structure is being utilized almost exclusively for kitchen space, which has to do with the technology of the fast food industry. The practice in Beverly Hills has been to have limited exclusions of what is considered usable floor area.

Questions and comments from Board members were addressed by Perry and Rick Eccles, facility director with Sundance, Inc., franchisee for Taco Bell. Eccles indicated that roughly 70% of Taco Bell customers use the drive through rather than sitting down in the restaurant. There are currently 38 seats in the building with 42 seats proposed on the new site plan. It was noted that ADA requirements call for two barrier free parking spaces in a parking lot with 46 spaces. The proposed plan reduces the ADA parking to one space. This will be an issue for the Planning

Board to consider. Perry mentioned that the two existing barrier free spaces do not conform with current requirements. Any single space on the property must be van accessible with an 8 ft. aisle width.

Eccles said that he would like to be able to provide more parking spaces, but they are confined on this site. He has approached Mr. Vestevich, owner of the adjacent property at 31333 Southfield Road, with an offer to buy the south corner of his parking lot or to enter into a cross parking agreement. Both offers were declined. Eccles indicated that they have looked unsuccessfully along this stretch for a piece of property that would accommodate a larger structure. When the franchise agreement expires, they have a choice to rebuild or close and move to another site.

In answer to an inquiry, Wilson responded that there is no record of traffic accidents as a result of the Taco Bell site. There are occasional reports of someone in the left turn lane waiting to enter the property. Wilson mentioned that the stacking arrangement will be somewhat improved with the new site plan.

The petitioner was asked if there is any change anticipated in the occupant load of the building in terms of employee count. Perry answered that the efficiencies built into the kitchen will allow them to operate with the same staffing levels. It was noted that deliveries are generally made at night or early in the morning.

Schafer asked if an analysis has been done in an attempt to achieve additional parking spaces. Perry said that his firm tried various different configurations on the site. The original site plan showed 20 parking spaces; adjustments were made to gain back two spaces. The maximum parking capability for this property is 22 spaces.

It was questioned whether there were any other use variances that would be required for this site plan. Wilson responded that, based on previous discussions with the petitioner, he expects the next site plan to be in compliance with Village ordinances and ready for Planning Board review. Schafer suggested that the parking variance should have been evaluated at the same time as the front setback variance.

In answer to a question, Eccles said that they plan to have the project complete in under three months.

Decision: Motion by Tillman, second by Francis, to approve the variance from 46 parking spaces required by the Ordinance to 22 parking spaces at the Taco Bell lot as proposed in the site plan submitted or a substantially consistent site plan and contingent upon no other variances being requested. The hardship is due to the size, dimension and landlocked nature of the property.

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

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

None

MANAGER COMMENTS

Wilson informed the Board that Council has set a goal planning session on Saturday, February 12 at 9:30 a.m. Village Boards are being asked to bring forward their short and long term goals and objectives. Schafer should be receiving a communication from the Clerk relative to submitting Zoning Board goals and objectives that they would like Council to address at that meeting.

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

Motion passed (8 – 0).

Todd Schafer, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary