

Present: Chairperson Schafer; Vice Chairperson Tillman; Members: Berwick Brady, Donnelly, Francis, Meah, Meuller and Rass

Absent: Verdi-Hus

Also Present: Village Manager, Wilson
Council Liaison, Oen

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 JANUARY 10, 2011

Motion by Brady, second by Tillman, that the minutes of the regular Zoning Board of Appeals meeting held on January 10, 2011 be approved as submitted.

Motion passed (9 – 0).

CASE NO. 1229

Petitioner: Sally Russell

Property: 18204 Kinross
Sidwell #24-02-276-010

Petition: Petitioner request 1) 7'-1" variance from minimum rear yard open space requirements to construct a bedroom addition; 2) 2'-8" variance from minimum front yard open space to construct a covered front porch (not living space).

Village Ordinance: Ordinance Section 22.24.010: R-2B Single Family residential zone requires a minimum 40 ft. rear yard setback and minimum 40 ft. front yard setback.

Manager Wilson stated that Board members have received copies of a site plan depicting the petitioner's lot and proposed additions. This property is required to have a minimum 40 ft. rear yard setback and a minimum 40 ft. front yard setback. The property is in compliance with the setback requirements with the exception of a small portion of the existing front porch.

The proposed construction that includes a garage addition and a new family room will remain within the buildable area of the lot. The applicant proposes to add a master bedroom off the back of the house, which would encroach upon the rear yard setback by 7'-1". The petitioner is also requesting to enlarge and cover an existing front porch, which would encroach on the front yard setback by 2'-8". Wilson displayed photographs of the house and property with various views that show where the proposed additions would be constructed.

Mike Xenos of 32384 Beaconsfield was present on behalf of the petitioners. He indicated that the existing living room portion of the house encroaches on the front yard setback by one foot according to a survey. They are asking to encroach one additional foot into the front yard setback in order to build an open porch with columns to give a sense of arrival to the home.

Xenos related that there is a unique circumstance in that the homeowners have a pie-shaped lot that is only 134 ft. deep. The 40 ft. minimum front yard and 40 ft. rear yard setbacks result in more than one-half of the property being unbuildable. There is room to build on the side of the house; however, the petitioners propose to locate the master bedroom on the back of the home in order to provide more privacy from the family room of the adjacent house. Further, building out to the side would create a long structure that would not be as architecturally attractive from the street.

Xenos referred to the floor plan indicating that they are trying to build the additions in context with the neighborhood in terms of size. The usable space for the bedroom addition will be 14'-4" x 15'-9". The family room will be 15' x 19'. Xenos pointed out the terrace area between the family room and the master bedroom. The variance is being requested because the Russells love the neighborhood and they want to improve the 1950's house and property in order to add to the value of the neighborhood and surrounding area. The house will be made more energy efficient and be brought up to 2011 standards.

Xenos made the point that, if the neighbor to the rear were to receive the same rear yard variance, the end result would be 66 ft. remaining between the houses. He mentioned that the Russells plan to add evergreen screening on the rear lot line if the variance is granted.

Sally Russell said that she showed the proposed renovation drawings to both adjacent neighbors, who had no issues with the plans. The neighbor to the west had constructed a two-story addition on their home a few years ago. Russell stated that she and her husband were attracted to the blend of younger and older families in the neighborhood. They bought a home in Beverly Hills looking for a house they could remodel according to their own ideas. The Russells are empty nesters who do not want a two-story house even though a second story addition would not encroach on the rear yard setback. Chuck Roberts expressed the view that a two-story addition off the back of the house would be architecturally unattractive.

Schafer stated that this is a Board of limited powers, and they are being asked to change the law in favor of the petitioner. Schafer asked if the additions could be constructed in some manner that would require a lesser variance. He questioned whether the petitioner considered other layouts for the bedroom addition.

Questions from the Board were addressed by Xenos and the petitioners. Xenos displayed the current floor plan to explain how the layout of the existing house effects the placement of the proposed additions. He commented on plumbing issues related to the construction. The placement of the house on the land and the depth of the lot represents a hardship.

Schafer read a letter mailed to the Board from Ernest and Angeline Fournier, residents directly behind the Russell property. They object to granting of a variance for the reason that encroaching on the rear lot line would adversely affect the privacy of their master bedroom, living room and dining room at the rear of their house.

Ed Roberts of 18214 Riverside, abutting neighbor on the garage side, submitted a correspondence indicating that he was OK with the variance request.

Schafer outlined the standards that must be demonstrated to establish that a practical difficulty exists under Michigan Law that is sufficient to warrant relief by the granting of a dimensional variance by the Zoning Board of Appeals.

Schafer commented that he would be in support of some aspects of this case. The petitioners purchased the home recently and requested a variance. He thought that granting a variance to renovate a small one-story home would do more justice to the neighborhood than to compel the homeowners to construct a second story that would result in a more elongated house that would impact the neighbors. Houses from the 1950's era do not reflect modern times and are difficult to live in today. Schafer thought that an addition could be built with a lesser variance; the Board has to weigh the benefit to the homeowner and to the community. Schafer would consider voting in favor of this variance request on the conditions that the owners would not build a second story at least over the proposed additions; that the petitioner would build substantially in accordance with the plans submitted to the ZBA; and that the proposed evergreen screening be accomplished.

Berwick commented that she favors large open spaces. However, the proposed house plan was well designed by a professional architect, and it is understandable why the homeowners do not want to locate the addition on the side of the house.

Wilson questioned whether the 18" cantilever bay window would be allowed without requesting an 8'-7" variance in lieu of a 7'-1" variance. It would be the building official's ultimate decision upon review of the plans.

Xenos responded that the petitioners would forego the bay window if the building official viewed it as another encroachment.

Decision: Motion by Tillman, second by Brady, to approve the variance as submitted based on practical difficulties with lot size, shape, and dimensions; the placement of the house on the lot; and the fact that building in a different formation would result in less open space and more congestion on the east and west and would not be in character with the neighborhood. Consideration was given to the distance of the additions from the houses on the east and the west. The variance is granted with the following conditions: 1) That the addition constructed be substantially in compliance with the plans presented to the Zoning Board; 2) A minimum of 6 ft. high evergreens be planted near the lot line for screening; 3) That the owners would not build a second story at least over the proposed additions; and 4) that the covered porch remain unscreened.

Roll Call Vote:

Meah - yes
Rass - yes
Schafer - yes
Tillman - yes
Mueller - yes
Berwick - yes
Brady - yes
Donnelly - no
Francis - yes

Motion passed (8 – 1).

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

It was mentioned that, at its joint meeting with Council, members of the Planning Board commented on recent Zoning Board action on variance requests related to remodeling the Taco Bell building on Southfield Road. There followed conversation on site plan review practices and whether a variance needed for new construction or major reconstruction should first be forwarded to the Planning Board or sent to the Zoning Board to consider granting a variance in advance of going to the Planning Board for site plan review. It was also related that the Planning Board suggested that Zoning Board members could benefit by training on how to interpret a hardship and practical difficulty.

Schafer commented that there is no mandated process when a site plan needs both Planning Board and Zoning Board approval. He is not sure that State Law provides for a consolidated review. Schafer expressed the view that it would make sense for an informal ad hoc committee consisting of the chair of the Planning Board and Zoning Board to meet with the Village manager and petitioner to review an issue that appears to require site plan approval and a variance from the zoning ordinance.

Wilson stated that the only thing spelled out in the Charter is that all site plans first go to the Council, are referred to the Planning Board for review and recommendation, and go back to Council for final approval. The question of how to proceed administratively when a site plan does not meet ordinance requirements varies in different communities. We have taken the tone in the Village to inform the petitioner that their site plan does not meet the ordinance and the Planning Board and Council cannot approve the plan as submitted. The options would be to revise the site plan to meet the ordinance or seek a variance from the Zoning Board.

The Zoning Board requested that Administration look into the fee schedule in terms of the cost of applying for a variance from the Zoning Ordinance. Determination should be made on whether the fee covers the administrative costs to the Village. The application charge for commercial site plan review should also be scrutinized particularly since the planning consultant will be engaged to review plan submittals.

MANAGER COMMENTS

Wilson updated the Board on upcoming improvements to the Market Fresh building on Southfield Road, which will include a covered area outside of the Starbucks store.

Motion by Tillman, second by Donnelly, to adjourn the meeting at 8:36 p.m.

Motion passed (9 – 0).

Todd Schafer, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary