

Draft: September 27, 2008

Village of Bingham Farms
Zoning Board of Appeals
September 22, 2008

Approved: October 27, 2008

The regular meeting of the Zoning Board of Appeals was called to order by Chairperson Bauer at 7:30 p.m.

Present: Bauer, Ettenson, Freeman & Gollnitz

Absent: Kesley, Leckie & Tripp

Also Present: Hagaman, Ludwick & McDermott

Agenda

Motion by Ettenson, second by Freeman to accept the Agenda to switch the order of business to Appeal 2008-02 first, Appeal 2008-03 second.

Motion carried.

Minutes

Motion by Ettenson, second by Gollnitz to approve the meeting minutes of July 28, 2008 as submitted.

Motion carried.

Appeal 2008-02 (29975 Bristol Lane)

Roger Van Weelden (property owner) stated he is seeking a 20-ft variance to the side yard setback. Approximately 5-years ago, he rebuilt a bridge that gives him access to his rear property. The Franklin Branch of the Rouge River splits his property. There was a bridge in that location that had been built more than thirty years ago. That bridge over time basically had collapsed.

Mr. Van Weelden indicated that he built the new bridge in the exact location of the prior one and he had no idea there was any encroachment on the side yard setback until he was made aware of it via correspondence from the Village office. He did get the appropriate permits from the MDEQ and the County. Mr. Van Weelden indicated the original bridge was built with a large sewer pipe which deteriorated over time. The river is wider at the location of the original bridge and erosion was prevalent. However, the new bridge was constructed at the narrowest part of the river and at an angle to provide the shortest distance across the river. It is also placed at the highest elevation on his property.

A boundary survey was performed which shows the encroachment. The pictures that have been submitted show that the bridge is not visible to the neighbors nor are they in any way affected by the bridge.

There being no questions by the Board members, Chair Bauer opened comment to the floor.

Mr. Lasser (30029 Bristol Ln.) stated his concern that the bridge may be on his property. Mr. Gollnitz stated the boundary survey indicates the bridge is not on his property and suggested Mr. Lasser obtain his own survey if he has a problem with the applicant's boundary survey.

Mr. Lasser contended that he can see the bridge and stated that by Village Ordinance 157.023, the bridge is not a permitted use. Additionally, there are plastic materials beyond the bridge that in essence could be on his property.

Mrs. Van Camp (22905 Bristol Ct.) questioned why the bridge is an issue when it was constructed over five years ago. She asked whether there was a statute of limitations.

Mr. Lasser commented that he would not object to the bridge if he could use it to which Mr. Van Weelden rejected.

Mrs. Hagaman presented pictures of the bridge that were taken in July 2008 when the complaint was received by the Village. The pictures show that the "plastic supports" referred to by Mr. Lasser appear to be metal with wood surrounds. They were utilized to shore up the stream bank to correct and prevent further erosion to the bank.

Mr. Ochadleus (23033 Bristol Ct.) stated he had no objections to Mr. Van Weelden's bridge.

Motion by Mr. Freeman, second by Gollnitz to approve the 20 ft. variance based on the following findings of fact:

1. Strict compliance with the ordinance is unnecessarily burdensome and unreasonably prevents the owner from using the rear of his property for a permitted purpose.
2. The variance will do substantial justice to the applicant and other property owners.
3. A lesser variance than requested will not give substantial relief to the applicant.
4. The need for the variance is due to unique circumstances peculiar to the property and is not generally applicable in the area or to other properties in the same zoning district.
5. The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.

Mr. Ettenson stated that, given the information and photographs in the Village files, the erosion control measures were installed properly and inspected by both the MDEQ and Oakland County.

Motion carried.

Appeal 2008-03 (23750 Woodlyne Dr.)

Mrs. Hagaman indicated there might have been a mix-up as to who would be the representative for the appeal. If the ZBA members were amenable, she has worked with the property owner and contractor on this project.

The property owner has received approval from the DRB for the pool and terracing. The owner would like to provide a green area around the pool and raised terrace, however the fence would encroach into the rear yard setback by 60-feet. The rear of the property has dense vegetation and will not be seen by the Beverly Hills residences that abut the rear property. State law requires fencing around all pools. Neighbors were notified 15 days prior to the meeting, and no objections were received prior to this meeting. none have shown tonight.

Motion by Gollnitz, second by Freeman to approve variance 2008-03 to construct a 4-ft high black aluminum fence as indicated on the plans submitted for this request due to findings that

1. Strict compliance with the ordinance is unnecessarily burdensome and unreasonably prevents the owner from using the rear of his property for a permitted purpose.
2. The variance will do substantial justice to the applicant and other property owners.
3. A lesser variance than requested will not give substantial relief to the applicant.
4. The need for the variance is due to unique circumstances peculiar to the property and is not generally applicable in the area or to other properties in the same zoning district.

5. The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.

The variance is conditioned upon the Clerk's approval of the fence materials.

Motion carried.

Old Business

None

New Business

None

There being no further business before the Board, the Chair adjourned the meeting at 8:00 p.m.