

Draft: May 29, 2008

Village of Bingham Farms
Zoning Board of Appeals
May 27, 2008

Approved: July 28, 2008

The regular meeting of the Zoning Board of Appeals was called to order by Chairperson Leckie at 7:15 p.m.

Present: Leckie, Ettenson, Kesley, Gollnitz & Tripp

Absent: Bauer, Freeman

Agenda

Mr. Kesley requested that the agenda be amended to add another item under discussion topics.

Motion by Ettenson, second by Gollnitz to amend the agenda to add under Discussion Topics, Item B. Landscape Maintenance Agreement – 30029 Bristol Ln.

Motion carried.

Meeting Minutes

Motion by Gollnitz, second by Tripp to approve the meeting minutes of December 17, 2007 as submitted.

Motion carried.

Appeal of DRB Decision - Landscape Lighting Plans – 30029 Bristol Ln.

Attorney Steve Rabinovitz, representing the property owner, indicated he did not fully understand why exactly the DRB denied approval of the landscape plans. He indicated the denial was based upon Section 153.34 B (6) which states that “lighting off-site shall provide adequate but minimum outdoor illumination. He questioned how this applied to his client’s request and questioned the definition of “off-site”.

He indicated that the plan calls for accent lighting which will not throw off as much light as an existing high-intensity light on the garage.

Mr. Rabinovitz indicated that his client is willing to modify the plan to remove the spotlights on the trees. The lights are so his client can see the features within the garden itself. They will not be visible from the street. They are a safety feature for walking in the garden at night. His client has planted the vegetation as promised. He believes there is no basis for denial.

Village attorney, Ms. Kolb stated that the DRB motion was quite clear. There were two separate ordinances referenced in the motion, Section 153.34 and Section 157.052 which states “Outside lighting facilities which are clearly of a character, size and nature of the one-family dwelling....” The motion also recommended that a photometric study be undertaken to show light dispersion. The DRB also felt the lighting was excessive.

Mr. Lasser stated that the lights will not be on all the time and never beyond 11 p.m. The path lighting will be on only when he entertains or for his personal enjoyment. They may be on 10-12 times a year. The sodium light on his garage is on every night and shines all the way down the drive. No one has ever complained about it. He reiterated that he would remove all the accent lights (the 32 uplights). Mr. Lasser also stated that he has planted additional trees that were not part of the approved landscape plan. He also intends to plant additional trees on the south side of his property to screen his neighbor’s view.

Mr. James O'Brien, attorney for the VanWeeldens (29975 Bristol Ln.) summarized the actions taken at the November 2007 ZBA, specifically granting a variance for the pagoda and fountain, determining they in fact were structures and required that a landscape maintenance agreement be signed and recorded. The ZBA also modified the DRB decision and allowed the koi pond, waterfall and trellis conditioned that they were not to be in operation until 5/31/08.

The ZBA also ruled that a separate lighting plan was to be submitted to the DRB for approval prior to installation of any lighting. He indicated it is bad precedent for applicants to ignore DRB decisions and appeal to the ZBA. It is his opinion that if there is a new proposal, the DRB should have the opportunity to look at it again. He stated that the ZBA does not have the basis to rule on an oral proposition presented this evening. He also indicated that the plantings in no way compare to the approved plan.

Mr. Roger VanWeelden (29975 Bristol Ln.) stated that early on, this village came together with a vision that included a country-like setting, open front yards, wooded properties and a tranquil environment. He believes the lighting plan will obstruct neighbors' enjoyment of the evenings. His lighting will be magnified at night. Neighbors should not have to endure this excessive lighting.

Motion by Kesley, second by Ettenson to refer the amended lighting plan to the DRB for further review and action. The DRB is directed to limit the review to lighting intensity via an illumination study rather than the number of lights.

Mr. Ettenson noted that the ZBA has received comments from several neighbor objecting to the proposed lighting plan and these comments should be provided to the DRB.

Motion carried.

Landscape Maintenance Agreement

Motion by Kesley, second by Ettenson that in Case No. 2007-02 whereby the ZBA conditionally granted variances on November 26, 2007, to establish Monday, June 23, 2008 at 7:30 p.m. as the date and time for a hearing on the terms and conditions of the Maintenance Agreement required as a condition of the variances that were granted unless, prior to the deadline for the Village Clerk to satisfy the public notice requirements for said hearing, the Village Attorney is in possession of a signed and recordable document from the property owner, that in the Village Attorney's opinion, conforms to the Maintenance Agreement condition based on the ZBA's records in this case, and that upon the Village Clerk providing public notice of the hearing, the three draft documents submitted to the Council under cover of the Village Attorney's confidential, attorney-client privileged opinion letter dated May 22, 2008 shall be public records that are no longer exempt from disclosure under the Freedom of Information Act.

Motion carried.

Motion by Kesley, second by Gollnitz to adjourn.

Motion carried.

The meeting was adjourned at 7:58 p.m.