

**VILLAGE OF FRANKLIN
SIGN BOARD OF APPEALS
ZONING BOARD OF APPEALS
REGULAR MEETING
THURSDAY, FEBRUARY 20, 2020 at 7:00 P.M.
At the Franklin Village Hall
32325 Franklin Road, Franklin, MI**

I. MEETING CALLED TO ORDER

The Regular Meeting of the Zoning/Sign Board of Appeals was called to order by Randy Brakeman, Chairman, at the Franklin Village Hall, Franklin, Michigan at 7:00 PM.

II. ROLL CALL

Present: Randy Brakeman, Bill Couger, J. Bennet Donaldson, Fred Gallasch, Bruce Kueck, Dean Moenck, Linda Novak

Absent: None

Also Present: Bill Dinnan, Building Official, Eileen Pulker, Village Clerk

III. ADOPTION OF AGENDA

Motion by Moenck, seconded by Kueck to adopt the Agenda for the February 20, 2020 Regular Zoning/Sign Board of Appeals meeting, as presented and published.

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak

Absent: None

Nays: None

Motion carried.

Brakeman explained the normal procedures and the purpose of the Zoning/Sign Board of Appeals.

IV. NEW BUSINESS

**A. Case: #19-06
Property: 32575 Romsey, Franklin, Michigan
Parcel: 24-05-105-005
Zoning: R--L**

Description of Proposed Request: The appellant is requesting that the Zoning Board of Appeals grant a variance regarding a new dwelling, as follows:

The Village of Franklin Ordinances being zoning district R-1, Section 1268.17, as follows: Village of Franklin Ordinances 1268.17 states in part that at no point on a site shall the combined effect of filling and excavation result in a change of grade greater than five feet over the entire site. The site plan shows areas where there will be cut and fill greater than the five-foot limitation being cut 2 feet greater in the rear yard, and fill 2 feet greater than above the allowed feet in front.

Dinnan presented this case by first showing a slide of the site plan of the property, explaining the different lines: dark lines were the proposed grade lines and the lighter grey lines were the existing grade lines. Because the property was higher than the street, the property owner would like to grade down the front property and add a circular drive in order to make the approach to the house more accessible and safer. Also in the front, it was proposed that the grade on the side would be increased so as to control the direction of any water drainage. The back property is a hill sloping away from the house. Because the new house would be built into the hill, the property owner proposed cutting away

at the steep grade to make a more gradual slope in the backyard. Water run-off would be contained within the property and directed to a drain, therefore, would not affect the neighbors. Hubbell Roth & Clark, the Village engineering consultants, have reviewed and approved the original site plans, which met the Village Ordinances.

The applicant had already obtained his building permit and was starting construction of the house.

Gallasch inquired if the owner had done any grading. Dinnan answered in the affirmative but minimal, noting that it was enough to begin the construction but nowhere near the final grading at this point in time. Novak questioned if the water from the back draining out the front yard to the street impacted the neighbors across the street. Dinnan answered in the negative and added that HRC had taken that into account. It was his opinion that the water flow would not change.

Mustafa Saeed, builder for the property, explained the different grades of the property and the challenges of it. He was aware of the Ordinances and was requesting permission to cut and grade a few extra feet beyond the permitted, allowable feet. Basically, he wanted to have a flatter backyard and make the driveway safer. Regarding the water drainage, all would remain on his property. The actual grade of the original house was so high he was requesting permission to grade down the front yard and put in a circular drive.

Couger confirmed that the primary drive was exempt and not even an issue. The variance was for the circular drive and the backyard. Dinnan detailed the concern about the steep hill in the middle of the circular driveway and the other side of the driveway at the corner of the house.

Judy Schulz, Dennison, the neighbor on the north, has lived in her house 20 years. She and her husband were concerned there would be water going onto their property. They and other neighbors had not had any water issues because of the very deep slope. She worried that if Saeed cut out/lowered a section on the north side of the backyard, water would flow into her swimming pool, which was on a lower level.

Dinnan explained that with what Saeed would be doing in the backyard the flow of the water would not impact the neighbors' yards. In fact, after grading the land, the water would flow to the front yard of "his" house. Brakeman explained that the water will flow to the eastern side of the property, not to the north. Dinnan further noted that Franklin has a "natural flow drainage". There are no storm sewers in the town, with the exception along Franklin Road. Therefore, water always flows from one property to the next until it reached one of the streams or the Franklin River. The natural flow would not change even if there was construction.

Mark Ziessow, Redfern, grew up in this neighborhood and was very familiar with the neighboring houses to the south of this property. He questioned why Saeed could not have pulled the house forward rather than putting in a circular drive, which would take more impervious area away from the property? With all the trees taken away, he was concerned about where the water would go. Where would the houses down on Romsey hold all the water?

Dinnan stated that the water issue has to be addressed, reviewed, and approved by the Village engineers.

Donaldson noted that based on what he had heard tonight it was hard to establish that Saeed was exacerbating the problem and based upon the grade the water would have to flow "Up" to get to the

neighbor's property. Moenck confirmed with Dinnan that HRC had reviewed the original plan and if a variance was granted and before the project could proceed, would do an overview of this particular plan with the modifications, to make sure the changes would not impact the water flow.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance of the combined effect of filling and excavation result in a change of grade greater than two (2) feet over the Ordinance limitation of five (5) feet in both the front yard and the rear yard.

1. The property address is: 32575 Romsey, Franklin, Michigan.
2. The Parcel ID is 24 05 105 005.
3. The Zoning is R-L.
4. There is sand in the front yard.
5. In addition to allowable five (5) feet change in elevation, the request is for a variance of two (2) feet lower in the rear (west) and two (2) feet higher in the front of the house (east).
6. Construction is already underway on the house.
7. The original plan was approved by HRC. This plan is an additional variance request for additional two (2) feet.
8. The final drainage plan will be reviewed and approved by HRC based upon the latest elevations and the new grade.
9. One of the major reasons for the variance request is that this lot has significant topographical challenges.
10. The change in a higher elevation inside the circular driveway would minimize the problem of what would be a steep area and could be a health and safety issue.
11. Documents show the water run-off being acceptable and the elevation on the center of the property is lower than in the northern edge of the property.

Motion by Moenck, seconded by Gallasch, that the Board members consider the Proposed Findings of Facts, and if you believe a decision regarding the variance requests should be made using the above Findings of Facts indicate by saying "Aye" and if you do not believe that the proposed Findings of Facts are appropriate for making a decision you should vote "Nay".

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak

Absent: None

Nays: None

Motion carried.

Motion by Couger, seconded by Kueck that each member of the ZBA approve the variance as requested for Case #19-06, based on the Findings of Facts, for 32575 Romsey, Franklin, Michigan and of the Applicant's request for a variance of a combined effect of increasing the elevation of the eastern portion of the property (front yard) and of decreasing the elevation of the western portion of the property (rear yard), each by two (2) feet over the Ordinance limitation of five (5) feet in both the front and the rear yard.

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak

Absent: None

Nays: None

Motion carried.

B. Case: #20-01
Property: Franklin Cemetery
Parcel: 24-06-257-023
Zoning: R-1

Description of Proposed Request: The appellant is requesting that the Zoning Board of Appeals grant a variance for the number and location of posted signs, of which three (3) have been applied for, as follows:

The Village of Franklin Ordinances being zoning district R-1, Section 1474.17, as follows:

1. Village of Franklin Ordinances 1473.17 (1) – Number, states in part that One (1) sign shall be permitted per establishment.
2. Village of Franklin Ordinances 1474.17 (3) – Location, states that ground signs may be located in the front yard, provided that no portion of any such sign shall be located closer than ten (10) feet to the existing or planned right-of-way.

Dinnan explained that the appellant, the Franklin Cemetery, was in a residential area; however, it was considered a non-residential use and was requesting variances for the number and the locations of three (3) Cemetery signs. The plan was to put the signs in the immediate area of the fence surrounding the property, which was not in the required setback.

Steve Bancroft, Administrator of the Franklin Cemetery, presented slides showing the present signs located at the two (2) entrances of the Cemetery: Drummond Ct. and Scenic Dr. The original request was for three (3) signs; however, the Historic District Commission did not approve the third (3rd) one, which would have been on the far east side of the Cemetery facing Franklin Road, therefore it was not part of tonight's request. Gallasch noted that HDC was still discussing the Franklin Road sign. The old three (3) signs at each entrance would be replaced by one new sign at each entrance. The proposed wording of the original sign for both entrances would change the closing time of the cemetery to sundown, pets needed to be controlled, and the notification that gravesites were still available. The biggest problem the cemetery has was the misinformation that the cemetery was owned by the Village, which was not true, and that the cemetery was historic, therefore no one was being buried there, also not true.

In square footage, the new sign would be approximately the same as the original three (3) signs. The signs would not be copper, although they would look as if they were made of copper. They would be thick plastic with a wood grain coloring, which would never fade because the color goes all the way through the plastic. Moenck confirmed that the HDC has approved it. Bancroft explained there would be grommets on the sides of the signs and hooks could attach them to both fences: chain link on Drummond Ct. and wrought iron-looking on Scenic. Bancroft mentioned that the chain link fence along Drummond would be replaced in the future. He informed the ZBA that there were 600 grave sites available and, possibly in the future, the Cemetery would be acquiring land from the Village at the top of the sledding hill.

Dinnan stated that because the signs were on the fences, which were on the road right of way property lines, they do not conform to the ten (10) foot setback lines. However, the fences could not be removed, as there were graves at the fence line. Because of the locations, Couger noted that the current signs were legally non-conforming and Bancroft reminded the ZBA that the signs had been

granted many years ago and the new signs were replacements. Bancroft also provided details of the proposed sign on Franklin Road and HDC's concerns about the location of it.

Dinnan clarified that the requested variances were amended. They were for one (1) sign each at two (2) locations.

Public Comments

There were no comments made at this meeting.

As a Point of Order, Dinnan explained that for this particular issue regarding the signs, the Commission was actually working in the capacity of the Sign Board of Appeals, and need not be as emphatic of following the same provisions as they do for a Zoning variance. Brakeman clarified that the wording of the signs were not addressed in the Sign Ordinances.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request location and a second (2nd) sign at the Franklin Cemetery:

1. Two (2) letters were received not in favor of the wording of the signs.
2. There are two (2) active entrances into the Cemetery.
3. The signage at both entrances had the same wording.
4. The perimeter fence of the Cemetery was on the property line.
5. There are grave sites right up to the inside of the property line. Therefore, the fence could not be moved.
6. Because of the location of the fence, the request is for the signs to be placed on the fence.
7. The six (6) signs would remain on the fence if the appeal were not granted.
8. The signs would be plastic with wood grain coloring and have been approved by the Historic District Commission.
9. Regarding the wording of the signs, the Cemetery is a not for profit 501c13 private endeavor and was in accordance with the Supreme Court ruling that all signs should be content neutral.
10. The signs are each about 2 ft. by 2 ft. in size, less than 20 sq. feet, which meets the Ordinance.

Motion by Moenck, seconded by Couger, that the Board members consider the Proposed Findings of Facts, for Case #20-01, and if you believe a decision regarding the variance requests should be made using the above Findings of Facts indicate by saying "Aye" and if you do not believe that the proposed Findings of Facts are appropriate for making a decision you should vote "Nay".

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak

Absent: None

Nays: None

Motion carried.

Motion by Couger seconded by Novak, that each member of the Sign Board of Appeals, using the approved Findings of Facts, consider the facts, and if he believes the facts warrant approval of the Appellant's request for two (2) new signs at the Cemetery entrances and the removal of the current six (6) signs currently at the entrances, as designated in the proposal, he should vote "Aye" and if he does not believe that the facts support the variance, he should vote "Nay".

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak
Absent: None
Nays: None
Motion carried.

C. Case #20-02
Property: 31098 Oakleaf, Franklin, Michigan
Parcel: 24-06-476-021

Description of Proposed Request: The appellant is requesting that the Zoning Board of Appeal grant a variance for an open porch, as follows:

The Village of Franklin Ordinances 1268.07 (a) (1), allows for an encroachment in to the front yard setback for open porches to not be greater than 12 feet in to the required 50-foot setback. Thus, a setback to an open porch is to be 38 feet. The proposed project shows a setback of 31 feet 4 inches; therefore, a violation of the above section by 6 feet 8 inches.

Dinnan introduced this case, which was requesting a variance for a cover over an existing open porch. He explained that the Ordinance allows for an encroachment into the front yard setback for open porches to not be greater than 12 feet into the required 50-foot setback. Thus, a setback to an open porch is to be 38 ft.

The applicant provided a site plan with the ZBA Application submittal.

The property is on the cul-de-sac on Oakleaf.

Brad Balkwill, architect for the project, explained that while going through the process for this project it was discovered that the house was non-conforming due to the location being in the setback. He explained the importance of having an overhang on the porch. The owners' son has special needs and routine is very important to him; one of which is waiting on the uncovered front porch for his bus to take him to and from school. Having to change his routine due to inclement or cold weather is very disruptive. Therefore, there is a paramount need for some type of protection from the weather.

There were questions about the materials to be used for the roofing of the canopy and the location(s) of the gutter(s).

Public Comments

There were no comments made at the meeting.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance for a covered porch at 31098 Oakleaf, Franklin, Michigan.

1. The property address is: 31098 Oakleaf,
2. The Parcel ID is 24-06-476-021.
3. The Zoning is R-1.
4. Three (3) letters were received from neighbors in support of this request.
5. The home is legally non-conforming.
6. The request is to cover an existing porch and not increase the footprint.
7. If the house was conforming, the encroachment would be allowable.

8. Since the house was legally non-conforming it was already located in the setback and the encroachment itself requires the variance.
9. The property has an irregular lot line.
10. The home is located at the end of a cul-de-sac with a curved property line and a curved setback.
11. Proper drainage off the roof has been taken into account and therefore does not add to a drainage problem.
12. In Michigan's climate, having a covering over an ingress/egress porch, it is not an unusual request for health and safety reasons for getting in and out of a vehicle.

Motion by Couger, seconded by Kueck, that the Board members consider the Proposed Findings of Facts, for Case #20-02, and if you believe a decision regarding the variance requests should be made using the above Findings of Facts indicate by saying "Aye" and if you do not believe that the proposed Findings of Facts are appropriate for making a decision you should vote "Nay".

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak
Absent: None
Nays: None
Motion carried.

Motion by Novak, seconded by Donaldson that each member of the ZBA approve the variance as requested for Case #20-02, based on the approved Findings of Facts, for 31098 Oakleaf, Franklin, Michigan and of the applicant's request for a variance for a covered porch and the required setback requirements, he should vote "Aye" and if he does not believe the facts support the variance, he should vote "Nay".

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak
Absent: None
Nays: None
Motion carried.

V. APPROVAL OF MINUTES: November 14, 2019

Motion by Moenck, seconded by Kueck to approve the minutes of August 15, 2019 ZBA meeting as presented.

Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak
Absent: None
Nays: None
Motion carried.

VI. ADJOURNMENT

Motion by Brakeman seconded by Moenck to adjourn the meeting.

Aye: Brakeman, Couger, Donaldson, Gallasch, Kueck, Moenck, Novak
Absent: None
Nays: None
Motion carried.

There being no further business the meeting was adjourned at 8:56 P.M.

Respectfully submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk