

**VILLAGE OF FRANKLIN
ZONING BOARD OF APPEALS
Minutes of Meeting
April 15, 2010**

I. MEETING CALLED TO ORDER:

The Regular meeting of the Zoning Board of Appeals was called to order by Chairman J. Hailey at the Franklin Village Hall, Franklin, Michigan at 7:30 P.M.

II. ROLL CALL:

Present: Bill Couger, Harold Stein, J. Hailey, George Haddad, Sam Dabich, Dean Moenck

Absent: Randy Brakeman (excused)

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

III. ADOPTION OF AGENDA

Hailey brought attention to a typographical error in the New Business section concerning Case #10-01, Freddie and Briana DuBose, 30125 Helmandale. The first paragraph should be corrected to read: 1. Franklin Village ordinance section 1268.28 (**d**) (2) requires that the location of the Privacy Screens shall not be located in a required yard setback area.

Motion: Motion by Dabich, seconded by Moenck to adopt the Agenda as amended.

Ayes: Couger, Stein, Hailey, Haddad, Dabich, Moenck

Nays: None

Absent: Brakeman

Haley explained the rules, procedures, and standards that the Zoning Board of Appeals uses in deciding the cases before it.

IV. NEW BUSINESS

- A. Case: #10-01**
Appellant: Freddie & Briana DuBose
Property: 30125 Helmandale Drive
Parcel ID: TF24 08 253 008
Zoning: R-2
Description of Proposed Request:

- I. The appellant is requesting that the Zoning Board grant a variance to install a fence (privacy screen, 6 foot tall) within the side yard adjacent to a street setback minimum per Appendix B, Schedule of Regulations, 40' minimum pursuant to Franklin Village ordinance section 1268.28 (d)(2).

2. The appellant is requesting a variance for the privacy fence to enclose the entire Telegraph Road side of the property from the front of the house to a place 24' from the rear lot line. This is larger in area than permitted in Franklin Village ordinance section 1268.28 (d)(3) which requires that the limits on enclosures for a Privacy screen be designed to screen a selected use or are (such as a swimming pool or patio) but not an entire side or rear yard. In no case shall a privacy screen be located in a front yard or both side yards.

Building Official Bill Dinnan presented the case to the Zoning Board. For the record, this is the most easterly property on the south side of Helmandale that abuts Telegraph Road. The applicant has requested that a solid 6 ft. tall wood fence be installed on the east property line from the front of the house which is approximately 62 feet back from Helmandale and extend 116 ft. toward the rear lot line, the last 24 ft. of which would be turned to screen the rear yard better. The fence falls under the definition of "Privacy Screen" in the ordinance but does not meet two of the parts of the Privacy Screen ordinance as described above.

Dinnan wanted the record to reflect that a letter was received from the owners of the property, dated March 22, 2010, stating that they are unable to attend the Zoning Board meeting but have asked Brian McGlaun to act as an agent on their behalf.

Discussion and clarification ensued concerning the definition of "Privacy Screen" vs. "Perimeter Feature".

Brian McGlaun, realtor with Century 21 Today (Maple and Telegraph), represented the property owners, Freddie and Briana DuBose. The owners have concerns with the safety for their young children, the traffic and noise along Telegraph Rd., debris thrown from cars along Telegraph Rd. which has blown into their yard (liquor bottles, syringes), security (there has been an increase in burglaries in the Helmandale area), future marketability of the house, and property values. The natural boundaries (trees and natural vegetation) of the property are not sufficient. The owners have already installed sound-proof windows on the east side of the house for noise reduction but are requesting this variance for a 6 ft .fence to act as an even better barrier. The fence would be inside the natural boundary, on the owners' property, therefore, would only be seen by the owners.

A question was raised as to the noise reduction between a 4 ft. fence vs. that of a 6 ft. fence. McGlaun said he had a report from an architect which broke it down in decibels. The extra 2 ft. would reduce the noise by about 25-30%. He emphasized that a 4 ft. fence would not serve the major purpose that the homeowners wished to achieve, that being noise reduction.

Dinnan clarified that the fence would be 2ft. off the driveway, between the driveway and the line of arborvitae.

A letter from the Helman Woods Subdivision Homeowners Association dated March 22, 2010 supporting this request was entered into the record.

Public Comments:

Eman Jajonie-Daman, 30185 Helmandale, President of "HWSHA", lives 2 houses down (West) from the Dubose's. She advised that she had personally looked into the situation and concluded that there is no density in terms of shrubbery between Telegraph and the Dubose property. She further stated that she can see her own house while driving down Telegraph. Location of the Dubose is very unique. Jajonie-Daman opined that the noise is intense and, sometimes, when her own bedroom window is open, it is difficult to sleep. She and the entire Association Board have no objections to having a 6 ft. privacy fence installed in the indicated location for the purpose of noise control, safety, security, and the overall debris control. In addition it will not be an eye-sore or interfere with the aesthetics of the neighborhood. The entire Association Board strongly urges the Zoning Board to consider the privacy fence.

Steve Cohen, 30595 Helmandale, Treasurer of the Helman Woods Subdivision Homeowners Association, re-iterated the Association's support of the homeowners' request and addressed the uniqueness of the property, i.e. closeness to Telegraph Rd., trash and noise associated with this busy thoroughfare.

The Zoning Board discussed different instances where variances for large fences had been requested. It is the concern of the Board that it did not want to set a precedent with this request. A question arose as to the viability of using a smaller fence for safety and sound-block.

Hailey made mention that there is one main feature that may differentiate this property - it being the house's close proximity to Telegraph Rd. Other houses along Telegraph between 13 Mile Rd. and 14 Mile Rd. are set back further than this particular house.

The Zoning Board of Appeals made the following Findings of Fact with respect to the Variance Requests:

1. Freddie and Briana DuBose, 30125 Helmandale, are the appellants, and have requested 2 variances to the Fence Ordinance: 1. Section 1268.28 (d)(2) requiring that the location of the Privacy Screens shall not be located in a required yard setback area and they want permission to put a 6ft. tall within the side yard setback. 2. Section 1268.28 (d)(3) requiring that the limits on enclosures for a Privacy screen shall be designed to screen a selected use or area (such as a swimming pool or patio) but not an entire side or rear yard.
2. The Applicants have support for their variance request of the Helman Woods Subdivision Homeowners Association, expressed in writing and also in testimony before the Board.
3. The Applicants are proposing to put the privacy screen in the side yard setback along Telegraph Road.
4. This house is closely adjacent to Telegraph Rd. Consequently, the Appellants are concerned about the safety and noise impact on their home and family.
5. Input was received from the public presenters and the representative of the Appellant wherein they stressed the importance of safety of the children and

- family, and the debris from Telegraph Rd. which affects properties all along Telegraph Rd. within the Village in the R-2 zone district.
6. The appellant has requested a 6 ft. fence and has declined to consider a 48" fence which would be in conformance with the ordinance.

Motion: Motion by Stein, seconded by Moenck, that the Board members consider the proposed Findings of Fact, and those who feel a decision can be made using the above Findings of Fact indicate this by saying, "aye" and those who do not feel that the proposed Findings of Fact are appropriate for making a decision should indicate that by voting "nay".

Ayes: Couger, Stein, Hailey, Haddad, Dabich, Moenck

Nays: None

Absent: Brakeman

Motion carried.

Motion: Motion by Hailey, seconded by Dabich, that each member consider the Facts that we have used to determine the facts for this case and if you believe these facts create a Practical Difficulty that warrants granting the requested variances say, "aye" and if you believe that the facts do not justify granting the requested variances say, "nay".

Ayes: None

Nays: Couger, Stein, Hailey, Haddad, Dabich, Moenck

Absent: Brakeman

The variance requests were not approved.

**B. Case: #10-02
Appellant: Signs By Tomorrow
Property: 32440 Franklin Road
Parcel ID: TF 24 06 276 001
Zoning: C-1**

Appellant was not present. The Village Clerk verified that all meeting information that the Board received was also sent to the appellant, Signs By Tomorrow, and the property owner. The Board discussed whether to consider the request and assume the statements by the applicant are true as stated on the application. The Board concluded it would be more fair to the Applicant to not consider this matter at this meeting since there was no one present to support the requested relief from the Village Signs Ordinance requirements.

Motion: Motion by Hailey, seconded by Couger, to table this matter, subject to formal notification of the applicant that a second meeting has been scheduled. If after this attempt of formal notification the applicant does not respond there will be no further action taken.

Ayes: Couger, Stein, Hailey, Haddad, Dabich, Moenck

Nays: None
Absent: Brakeman
Motion carried.

V. APPROVAL OF MINUTES: July 16, 2009

Motion: Motion by Haddad, seconded by Couger, to approve the minutes of July 16, 2009 as provided.

Ayes: Couger, Stein, Hailey, Haddad, Dabich, Moenck
Nays: None
Absent: Brakeman
Motion carried.

VI. ADJOURNMENT

Motion: Motion by Couger to adjourn the meeting at 8:45 P.M.

Ayes: Couger, Stein, Hailey, Haddad, Dabich, Moenck
Nays: None
Absent: Brakeman
Motion carried.

Respectfully submitted,

Gail Beke