

**VILLAGE OF FRANKLIN
SIGN BOARD OF APPEALS
ZONING BOARD OF APPEALS
Minutes of Meeting
June 16, 2011**

I. CALLED TO ORDER

The Regular Meeting of the Sign Board of Appeals and Zoning Board of Appeals was called to order by J. Hailey, Chairman, at the Franklin Village Hall, Franklin, Michigan at 7:30 PM.

II. ROLL CALL

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

Absent: None

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

III. ADOPTION OF AGENDA

Motion by Moenck, supported by Couger to approve the Agenda as presented and published.

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

Nays: None

Motion carried.

Hailey explained the process of how the meeting would be conducted.

IV. NEW BUSINESS

**A. Case: #11-02
Appellant: Franklin Commons LLC
Property: Helman Woods No. 1 Subdivision Lots 79-84 & 73
Parcel ID: 24-08-205-002, 24-08-205-003, 24-08-205-004,
24-08-205-005, 24-08-205-006, 24-08-205-007,
24-08-205-008**

Zoning: R-2

Description of Proposed Request:

The appellant is requesting that the Sign Board of Appeals grant a variance for the size of 24 square feet sign which will require a variance of 20 square feet, subject to the following:

1. Franklin Village Ordinance Section 1475.12 Temporary Sign Standard allows for Real Estate "for sale" sign of 4 sq. ft. and 6 ft in height, 1 per lot and 15 foot setback.

Building Official Bill Dinnan presented the case to the Sign Board of Appeals/Zoning Board of Appeals. The Applicant is requesting a variance of the Sign Ordinance. The property is owned by Franklin LLC. These are 7 vacant lots of the Helman Woods Subdivision located on Telegraph Rd., running south of 13 Mile Rd. to the corner of Helmandale which is the last street within the Franklin Village borders. The Applicant is requesting a variance for one (1) larger sign of 24 sq. ft. advertising the seven (7) lots for sale in lieu of seven (7) individual signs of four (4) sq. ft. each for each individual lot.

Hailey confirmed with Dinnan that the 15 ft. setback requirement was not a problem.

Harold Stulberg, Senior V. P. with NAI Farbman Commercial Real Estate Services, Worldwide and Agent for Franklin Commons LLC, addressed the Commission and explained the reasoning for the request of one (1) larger sign vs. seven (7) smaller signs at the location. The property is zoned Single Family Residential and is deed restricted as such.

Stulberg stated that the "uniqueness" of this situation is that Telegraph, which borders the site, is a major

road with heavy traffic (approximately 100,000 cars/ day) and the site has a 1000 foot frontage on Telegraph. He thought that it would be more advantageous if the sign were located at the stop light on Telegraph. Another issue is that of safety; one sign would be less distracting and thus less hazardous to drivers than seven (7) individual ones.

Dinnan advised that there is a slight difference between the Sign Ordinance 1474.12 Temporary Sign Standards and the Appeal to Sign Board of Appeals 1474.08. He read the five (5) criteria which the Board would use to establish a variance for practical difficulty or not. It should be noted that a single sign on each of the 7 lots would amount to 28 sq. ft. as opposed to one (1) larger sign of 24 sq. ft. advertising all 7 lots.

Dinnan explained that this would be a temporary sign and would be taken down when the property sells.

There was a concern that the public would see a large sign indicating the 1000 ft. frontage on Telegraph and surmise it was one commercial lot. Stulberg indicated that it would be possible to put the words "7 lots" on the sign.

Public Comments:

The Village Clerk indicated that the Office had not received any public comments.

William Finnicum, (German Mill), supported one (1) large sign as opposed to 7 smaller ones because of the safety and readability issues.

The Sign Board of Appeals/Zoning Board of Appeals made the following Findings of Fact with respect to the request of a variance for a 6 feet x 4 feet or a total of 24 sq. ft sign subject to the Ordinance as stated by the Building Official which would require a variance of 20 sq. ft. There has not been a request for any relief from the 15 ft. setback, so it is still applicable to this property.

1. The property fronts Telegraph Rd. which defines one of Franklin's borders. It is a heavily trafficked road accommodating approximately 100,000 vehicles per day.
2. There is a safety issue associated with seven (7) smaller signs as the Ordinance compliance would indicate. Total signage would be 24 sq. ft. for one (1) sign vs. a total of 28 sq. ft. for seven (7) smaller signs.
3. Applicant stated he would indicate "7 lots" on the sign which would be a condition of the approval.
4. The lots are zoned R-2, single family residential.
5. The proposal is to locate the sign on or near the stop light on Lot 81.
6. In the Zoning Board of Appeals Ordinance 1474.08 lists various items for consideration of extraordinary circumstances which would cause practical difficulties in complying with the Sign Ordinance. Of the 5 considerations listed, there is a possibility that (a) and (e) may apply to this case depending upon the opinion of each individual Board member as shown by each member's vote to approve the variance or not.
7. The sign previously at this location has been removed by the applicant immediately upon notification of violation by the Building Official.
8. If approved the "For Sale" sign will be temporary and will remain in place until the sale of the property has been completed.

Motion by Moenck, seconded by Brakeman, that the Board Members consider the proposed Findings of Fact, and if you believe a decision regarding this variance request should be made using the above Findings of Fact indicate this by saying "aye" and if you do not believe that the proposed Findings of Fact are appropriate for making a decision you should vote "nay".

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

Nays: Moenck

Motion carried.

Motion by Hailey, seconded by Couger, that each member of the Sign Board of Appeals/Zoning Board of Appeals, using the approved Findings of Fact, consider the facts, and if he believes the facts warrant approval of the applicant's request for the variance for the size standards he should vote "aye" and if he does not believe the facts support the variance vote "nay".

Ayes: Haddad, Brakeman, Hailey, Stein, Couger

Nays: Moenck, Dabich

Motion carried.

**B. Case: #11-05
Appellant: William Finnicum
Property: 25885 German Mill
Parcel ID: 24-06-279-001
Zoning: R-1**

Description of Proposed Request:

The applicant is requesting that the Zoning Board of Appeals grant a variance for the Replacement of a Detached Garage which will require a variance of 27 feet from the front property line (b), a variance to be erected in the front yard, not in the required rear yard (d), and a variance of 5.42 feet from the south side lot line (h), subject to the following:

1. Franklin Village Ordinance Section 1268.13 states in part that (b) Detached accessory building shall not be erected in any required yard except a rear yard... (d) an accessory building shall be located in the rear yard except when structurally attached to the main building and (h) no private garage shall be erected closer to the side lot line than the permitted distance of the dwelling, unless the garage shall be completely to the rear of the dwelling...

Building Official presented the case to the Sign Board of Appeals/Zoning Board of Appeals explaining that if the garage is to be reconstructed in its current location, variances of Ordinance 1268.13 (b), (d), and (h) would be required.

Finnicum, owner of the property, gave a brief history of the property, explaining that the garage was built in the 1950's, which pre-exists the present ordinances. It has had a presence on the street for those 60 years which the Historic District Commission felt was significant enough to give an approval for its replacement, subject to the Zoning Board of Appeals approval. They could repair the structure but it was felt that because of the steep slope and the existing structure's severe instability, the integrity of the building foundation would be compromised during any effort to repair the structure, thus rendering the project dangerous. It is the applicant's desire to replace the entire garage building with one that has exactly the same size and function.

Another hardship involves the occupants' need for storage. The house on this property is in the floodplain and has no basement. The basement of the existing garage is under only 1/3 of the structure due to the steep slope and erosion of the land the garage sits on, so the applicant wants to have a full basement under the new structure which would greatly improve the stabilization of the entire building. Mr. Finnicum also addressed the need for a new driveway for entering the new garage due to the gradual collapse of the earth under the existing driveway over the years, leaving the existing driveway unusable.

Mr. Finnicum assured the Board that the replacement would be the exact same shape, the exact same size, and in the exact same location. The siding, the roofing, the front door, and some window configurations would be different. The garage doors would be sliding, with glass on the top, and look more carriage-like. The Historic District Commission has approved all the aforementioned changes subject to the ZBA's approval.

Public Comments

The Village Clerk indicated that the office had not received any public comments.

Chip Hudson, (Franklin Rd.), supports the replacement project.

The Sign of Appeals/Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance for the Replacement of the Detached Garage which will require a variance of 27 feet from the front property line (b), a variance to be erected in the front yard, not in the required rear yard (d), and a variance of 5.42 feet from the south side lot line (h).

1. The Applicant's home and garage are in the Historic District, and the garage is the subject of the requested variances.
2. The lot is of irregular shape and size and has a severe irregular elevation. There is an extremely steep drop from the street level to the main house level.
3. The garage structure has been adversely affected by the dropping of the sand level underneath it that was holding up the garage.
4. The replacement structure will be the same size as the existing garage.
5. The Historic District Commission's approval of a new replacement structure rather than requiring the applicant to maintain and repair the existing structure is a rare and historically significant act on the part of the HDC. The HDC did not believe the existing garage could be safely repaired.
6. The garage borders the 100 year floodplain, thus, it could not be moved further back. The other options were blocked by such obstructing things as, the septic field, the pump house, and an artesian well.
7. The current garage is a pre-existing non-conforming structure in the Historic District and has been determined by the HDC to be of historic significance to the Village so the HDC desires a replacement structure of the same size in the same location in the historic district.
8. The existing garage and the proposed replacement are 2 ft. below the street level which presents unique drainage problems which has perpetuated the on-going deterioration for this structure and the earth beneath this building. The home itself is significantly below the garage level as evidenced by the elevations and pictures that were presented to the Board. Also, several board members had visited the property.
9. Another reason for this request is the Applicant's need to have auxiliary storage capability for his family and home. There is no reasonable alternative for storage other than this replacement garage.
10. Existing concrete footings of the Garage are crumbling very quickly but are to be replaced with new concrete footings which will be extremely deep and strong.

Motion by Hailey, seconded by Couger, that the Board Members consider the proposed Findings of Facts, and if you believe a decision regarding the three (3) variances should be made using the above Findings of Fact indicate this by saying "aye" and if you do not believe that the proposed Findings of Fact are appropriate for making a decision you should vote "nay".

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

Nays: None

Motion carried.

Motion by Hailey, seconded by Brakeman, that each member of the Zoning Board of Appeals, using the approved Findings of Fact, consider the facts, and if he believes the facts warrant approval of the applicant's request for the three (3) variances for the Replacement of the Detached Garage he should vote "aye" and if you do not believe the facts support the variances, he should vote "nay".

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

Nays: None

Motion carried.

C. Case: #11-06
Applicant: Zack Plastow & Elizabeth Dillon
Property: 26065 Carol
Parcel ID: 24-06-278-006
Zoning: R-3

Description of Proposed Request:

The Applicant is requesting that the Zoning Board of Appeals grant a variance for the construction of a Fence for the backyard which is 60 inches (5 Feet) in height. This will require a variance of 12 inches (1 Foot), for the height of the fence, subject to the following:

1. Franklin Village Ordinances Section 1268.28 (b) (4) Height, Except as otherwise expressly permitted herein, fences shall not exceed 48 inches in height.

The Building Official advised the Board that the height of the fence is the issue. The Historic District Commission encouraged the Applicant to use a picket-style fence and has approved the proposed fence subject to ZBA's approval of the variance.

Zack Plastow and Elizabeth Dillon, owners of the property, presented their reasons for applying for the variance. They have a dog as do both their neighbors. It is the applicants' desire to construct a five foot high fence within their property line and parallel to the neighbors' in the hope of preventing the neighbor dogs from jumping into their yard.

Haddad raised the issue that if the Board grants this request it might be seen as setting a dangerous precedence. The subject of fences is a very "touchy". He questioned if the owners had entertained alternative options other than a higher, nonconforming fence.

Moenck, representing the Planning Commission, commented that they looked at the fence ordinance in great detail. The Commission felt that 48 inches was a good compromise as the maximum fence height.

Public Comments

Chip Hudson, (Franklin Rd.), expressed his appreciation for the good zoning and fence laws in Franklin and the process that ZBA goes through when considering each case. He asked which documents were required before a fence is installed.

The Zoning Board of Appeals made the following Findings of Fact with respect to the request of a variance for the construction of a Fence which is 60 inches (5 feet) high:

1. The Applicant's property is located in the Historic District, Zoned R-3.
2. The HDC gave a conditional approval for a wrought iron fence, five (5) ft. in height subject to the ZBA approval of the requested variance.
3. The fence is a picket-style aluminum construction and the Applicant is requesting a one (1) foot variance for a total of five (5) ft in height for their fence.
4. The entire fence is to be in the backyard and mostly not visible from the street.
5. The yards which are adjacent and border the Applicant's property are already fenced in.
6. The existing four (4) ft. fence is not sufficient to keep other dogs out of their property. Neighbors' dogs have already jumped the existing fence.
7. The back fence belongs to the school and is in disrepair and does not deter children from climbing it.

8. There are probably alternative ways that the applicants may be able to resolve this problem of the neighbors' dogs jumping into their rear yard, including contacting the animal control officer.

Motion by Hailey, seconded by Moenck, that the Board Members consider the proposed Findings of Fact, and if you believe a decision regarding this variance request should be made using the above Findings of Fact indicate this by saying "aye" and if you do not believe that the proposed Findings of Fact are appropriate for making a decision you should vote "nay".

Ayes: Moenck, Brakeman, Hailey, Stein, Couger, Dabich
Nays: Haddad
Motion carried.

Motion by Hailey, seconded by Brakeman, that each member of the Zoning Board of Appeals, using the approved Findings of Fact, consider the facts, and if he believes the facts warrant approval of a variance for the construction of a Fence for the back yard which is 60 inches (5 feet) high, which will require a variance of 12 inches (1 foot), for the height of the fence, he should vote "aye" and if he does not believe the facts support the variance, he should vote "nay".

Ayes: Brakeman, Couger
Nays: Moenck, Haddad, Hailey, Stein, Dabich,
Motion denied.

V. APPROVAL OF MINUTES: March 17, 2011

Motion by Moenck, seconded by Dabich, to approve the minutes of March 17, 2011, as provided.

Haddad wished to amend the minutes to include in the Discussion for Case #11-02, Golfdale LLC, that he was strongly concerned about the aesthetic quality of having an awning on only half of the façade.

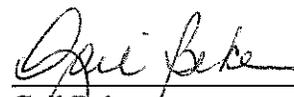
Motion by Moenck, seconded by Dabich, to approve the minutes of March 17, 2011, as amended.

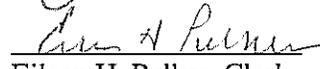
Ayes: Moenck, Brakeman, Haddad, Hailey, Stein, Couger, Dabich
Nays: None
Motion carried.

VI. ADJOURNMENT

The meeting adjourned by unanimous agreement at 9:23 PM.

Submitted,


Gail Beke


Eileen H. Pulker, Clerk