

**VILLAGE OF FRANKLIN  
ZONING BOARD OF APPEALS  
SPECIAL MEETING  
Wednesday, April 25, 2012 at 8:00 P.M.  
At the Franklin Village Hall  
32325 Franklin Road, Franklin, MI**

**I. MEETING CALLED TO ORDER**

The Regular Meeting of the Zoning Board of Appeals was called to order by J. Hailey, Chairman, at the Franklin Village Hall, Franklin at 8:00 p.m.

**II. ROLL CALL**

Present: Dean Moenck, Bill Couger, J. Hailey, Sam Dabich, Randy Brakeman  
Absent: Harold Stein, Joe Roisman  
Also Present: Bill Dinnan, Building Official; Eileen Pulker, Village Clerk

**III. ADOPTION OF AGENDA**

**Motion by Moenck, seconded by Dabich to approve the agenda as presented.  
Motion carried.**

Hailey explained the normal procedures for the Zoning Board of Appeals.

**IV. NEW BUSINESS**

**A. Case: #12-03  
Appellant: Franklin Park Ct. Associates LLC. and Lisa and Scott Stern  
Property: 25370 Franklin Park Ct.  
Parcel ID: TF 24 06 280 018  
Zoning: RE  
Description of Proposed Request:**

To allow for the three gable points of the rear of the house that extend into the setback area which will require a variance, as stated below:

The above request for a permit does not comply with the table being Minimum Yard Setback in Feet, Rear (footnote C) which states in part that the maximum height measured at the rear of the building shall be determined using a measurement triangle, in accordance with the guidelines provided in and pursuant to Franklin Village Ordinances #1, Appendix B of Part Twelve, Title Four, SCHEDULE OF REGULATIONS, Zoning District RE.

Building Official Bill Dinnan presented the case to the Zoning Board of Appeals. He commented that the appellant is requesting a rear yard height variance of:

- A. 6 feet vertical and 12 feet horizontal for the north side of the building, the west most gable end (#3 on the plans, page A2).
- B. 2 feet 2 inches vertical and 4 feet horizontal for the north side of the building, the center gable end (#1&2 on the plans, page 2).
- C. 2 feet 2 inches vertical and 4 feet horizontal for the north side of the building, the east most gable end (#1&2 on the plans, page 2).

Dinnan also advised the Board that there is a letter on file from Franklin Park L.L.C. who is the current property owner that provides consent for the new residence plan as provided by the potential new property owners, Scott and Lisa Stern. Further documentation provided the Stern's consent for Joseph Lash, their attorney, and Arik Green, their architect, to represent them at the meeting as they were currently out of the country.

Dinnan also provided a short history of the property, explaining that the building footprint meets all of the setback requirements where the two (2) previous applications did not, adding that this variance is for a height issue and not a dimensional footprint variance.

Hailey asked for a point of clarification in that the variance is not a variance of height in total, but rather it is a variance because of the way the contextual zoning angle requirements intersect with these pieces of the three gables. Dinnan advised that the rear property drops off toward Romany Way. He explained the process of finding the average elevation of such a building on a slope. If this house had been on a flat piece of property there would be no need for a variance.

Joseph Lash, attorney, stated that he was present at this meeting representing Scott and Lisa Stern, the appellants, who are long time Franklin residents but, unfortunately, are out of the country. Lash pointed out that the design of the house is well within the setbacks and that this was done purposefully because the owners wanted to make sure there would be as little impact on the neighbors as possible and that the design was established to be in the spirit of the other houses in the neighborhood. Lash opined that this was a very unique piece of property in terms of the topography.

Arik Green, architect with Arik Green Design, LLC, presented the design of the house. The steep grade of the land was discussed.

Dabich asked what would be the consequences of the building plan if the ZBA denied the variance, and additionally questioned the purpose of the gables, whether they were intended to be attic or living spaces. Green replied that they are for attic spaces and are for aesthetic effect and similar to other properties in the area.

Hailey asked what the difference in elevations on the front side of the property and how the elevation varies from the front part of the house back to the back part of the house. Green explained the drop off from the Franklin Park Court (front of the property) to the Romany Way side (back of the property) was over 13 feet.

Moenck inquired if there would be any changes in the grade, or would there be any fill provided in front or behind the house. Green explained that he is trying to work with the natural grade.

Dinnan explained the history and thought process behind the change of the Contextual Zoning Ordinance, which had to do with the relationship between neighbor and neighbor and the nearness to the lot line for new homes built in the Village. Moenck made additional comments with references to the Planning Commission.

Green discussed the unique aspects of the property that should be considered in the matter; the property shape and slope, the height, and the easement line.

Moenck asked what the legal status of Franklin Park Court was. Dinnan explained that it is a private ingress and egress easement. There was a discussion about Romany Way at the back of the property being a private road, thus there being no public access.

**Public Comments:**

Beverly Neumann, Romany Way, explained that Romany Way abuts her property. Neumann added that her neighbors, the Coles, have an easement to get to their property at the end of the street, thus no one but the Coles has an egress on Romany Way.

Vivian Cole, Romany Way, explained that someone, possibly the Village, installed asphalt on Romany Way, which has allowed for the snowplows and post office deliveries access, which makes them happy, however, Cole explained that she was concerned about a big monolith being built and its proximity to her front door and is also concerned about safety and soil erosion.

Steven Rosenthal, Romany Way, the current lot owner, stated that he wanted to point out that the erosion can be an issue with any hilly terrain, but with landscaping there won't be any erosion problems. Rosenthal commented that the lot is very long and not very deep and that if the house were to be moved forward, it would butt up against the natural berm with large trees on the front portion of the lot.

Beverly Newmann, Romany Way, added her concern about the sunshine on her property.

Hailey acknowledged the written correspondence from Anne and Charles Reinhart who are opposed to the variance and voiced their concerns about the height and length of the house, and in addition from Maurice Pogoda and John and Dayle Hoffecker, who support the variance. Moenck stated that he had met the Bittkers who live nearby and are 100% in favor of the variance as requested.

**Motion by Moenck, supported by Couger, for The Zoning Board of Appeals to consider the following Findings of Facts with respect of a variance for the three gable points of the rear of the house that extend into the setback area:**

1. The property address is 25870 Franklin Park Ct.
2. The property is RE zoning.
3. The Parcel ID is TF 24 06 280 018.
4. Owners of the property have applied for the variance.
5. The owners are requesting a variance for the three gable points of the rear of the house that extends into the contextual zoning angle of clearance.
6. It is a 1.68 acre lot with a very irregular shape. The building envelope sits so that the narrow part of the lot is the primary location of construction. The architect stated that he sought to minimize the impact in terms of the compliance with the contextual zoning issues of this property because of its shape by his proposed design.
7. The property is bordered by a road on both sides (Franklin Park Ct. and Romany Way) but has no access to Romany Way.
8. There is a 13+ ft. drop from Franklin Park Ct. to Romany Way. The lot has many unique features that are not found in standard lots where one builds a home, including the slope of the land, the footprint which is able to be used for building, and the impact of its narrow depth, on the contextual zoning requirement on this property. .
9. The front yard setback and available build area is impacted by the Franklin Park Ct easement right-of-way.
10. The architectural feature that is requiring a variance is being designed into the house to make it more aesthetically pleasing and to keep it in harmony with the architecture of homes in the surrounding neighborhood.
11. The neighbor on Romany Way is concerned about the drainage off the lot and what impact that may have, but it was pointed out that with proper grass, plants and trees the risk of erosion will be much less than it is now due to rough unprepared surface of the existing vacant lot.
12. The architect does not believe the Village's intentions in adopting the Contextual Zoning revisions are applicable to this house design because there are no close neighbor homes anywhere near the planned house that are effected.
13. If you take the horizontal width out of the rear elevation and total up the request for the variances, it entails a maximum of 14 ½ feet of a building that is 108 ft. from one

- side to the other. It's a minor part of the overall aesthetic appearance of the rear elevation intended to copy the architecture of the homes of the neighbors.
14. If the land were flat instead of steeply sloped no variance would be necessary.
  15. The north end of the property is tree lined and it is intended to remain as such.
  16. The entire proposed building footprint is within the buildable envelope of this lot without any other variances. The building is as far away from the rear property line as possible.
  17. There are no neighbors in close proximity so the contextual zoning impact will be minimized or non-existent.

**Motion by Hailey, seconded by Brakeman, that the Board members consider the proposed Findings of Facts, and if you believe a decision regarding this variance request should be made using the above Findings of Fact indicate 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, Couger, Hailey, Dabich, Brakeman**  
**Nays: None**  
**Absent: Stein, Roisman**  
**Motion carried.**

**Motion by Hailey, seconded by Brakeman, that each member of the Zoning Board of Appeals, using the approved Findings of Facts, consider the facts, and if he believes the facts warrant approval of the variances for three gable points of the rear of the house that extend into the setback area, he should vote "aye" and if he does not believe the facts support the variances, he should vote "nay".**

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

**V. APPROVAL OF MINUTES: January 19, 2012**

**Motion by Hailey, seconded by Moenck, to approve the minutes as provided.**

**Ayes: Moenck, Couger, Dabich, Brakeman**  
**Nays: None**  
**Abstain: Hailey**  
**Absent: Stein, Roisman**  
**Motion carried.**

**VI. ADJOURNMENT**

**The meeting adjourned at 9:10P.M.**

Respectfully submitted,

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Gail Beke, Recording Secretary

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Eileen H. Pulker, Clerk