

**VILLAGE OF FRANKLIN  
SIGN BOARD OF APPEALS  
ZONING BOARD OF APPEALS  
SPECIAL MEETING  
Monday, September 30, 2013 at 7:30 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 7:30 p.m.

**II. ROLL CALL**

Present: Randy Brakeman, Bill Couger, Sam Dabich, Fred Gallasch, Matthies Meyer, Dean Moenck, Harold Stein  
Also Present: Bill Dinnan, Building Official; Eileen Pulker, Village Clerk; Amy Sullivan, Administrator

**III. ADOPTION OF AGENDA**

**Motion by Moenck, supported by Couger, to adopt the Agenda for the September 30, 2013 Special ZBA meeting as presented and published.**

**Ayes: Brakeman, Couger, Dabich, Gallasch, Meyer, Moenck, Stein**

**Nays: None**

**Motion carried.**

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

**IV. NEW BUSINESS**

**A. Case: #13-05  
Appellant: Beverly Neumann  
Property: 25850 Romany Way  
Parcel: TF 24 06 280 016  
Zoning: RL  
Description of Proposed Request:**

The Applicant is requesting the ZBA grant a variance for the installation of a fence within the setback for an abutting street.

The above request for a permit does not comply with the Village Fence Ordinance 1268.28 as follows:

1. The Village of Franklin Fence Ordinance Section 1268.28 (5) A. Permitted Locations, states that "Except as specifically provided below, fences are permitted only in rear yards and side yards. No fence shall be permitted to extend into the front yard, except as otherwise specifically provided herein. For side yards and rear yards abutting a street, no fence shall be constructed or maintained within any required setback from the street." The appellant is requesting a variance to allow the fence to be constructed in the required rear yard adjacent to a street setback area.

Dinnan presented the case to the ZBA, explaining that the property fronts on a private drive (Romany Way); however, the back of the property abuts Meadowdale Dr. Therefore that becomes a rear yard adjacent to a street and the Appellant wishes to put the fence back where it was before she removed it to do work on her property.

Dinnan clarified that according to the Ordinance when a fence is no longer there, taken down either by a storm or by other means, it is required to have a permit to be put back up, and as such, as the Building Official, he cannot issue a permit until such time it complies with the Ordinance.

Couger mentioned that there is a portion of the chain-link fence still standing. Dinnan stated that that particular portion is on one side in the back corner. He wanted the ZBA to be aware that this issue went before the Historic District Commission (HDC) which looked favorably upon it, subject to the approval of the ZBA.

According to the application, the proposed fence would be installed in the same location as it had been originally installed. The new fence would comply with all other requirements of the ordinance, with only the location being an issue. It will be a picket-type fence, no more than 4 ft. high, made of aluminum, and would connect to the end of the existing piece of fencing running directly West to the corner post.

Stein asked Dinnan if the existing chain-link fence is on the neighbor's property. Dinnan replied that he didn't know so the question should be directed to the Appellant. No dimensions were provided to him. With his remedial measuring of the site, he found that the edge of the pond area would not allow the applicant to install a fence at the setback line as the ordinance requires because the fence would then be in the middle of the pond.

When asked if the fence was in the right-of-way, Dinnan stated that he could not give a definitive answer because he has no way of knowing where the right-of-way is. He also had no knowledge if the existing fence which had been taken down had been in the right-of-way or not.

Dabich clarified that the applicant is asking to put the new fence in the same location as the old one (in the setback), which would not cross the pond. If it were not in the setback then it would be in the pond.

Beverly Neumann, owner of the property, read the letter she sent to the ZBA members and explained her reasoning for wanting to put the new fence in the same location as the old. She also mentioned the strong recommendation and conditional approval by the HDC. She showed the Commissioners a picture of the proposed fence and the two gates made by Action Yards adding that the new fence will be connected to the existing cyclone fence. She also mentioned the two favorable letters of her neighbors, Julie and Joe Angileri and Anne and Chuck Reinhart, which the ZBA had received.

#### **Public Comments:**

Jim Stevens, Meadowdale, stated that he has concerns about the location of the proposed fence and wanted to make sure that it was verified. He does not have an objection to fencing off the pond itself, but is concerned that the fence that was there was an existing non-conforming fence and he does not want to perpetuate the non-conformity in fence material and fence location. He suggested that the land be surveyed so accurate measurements can be made and a determination for right-of-way and setback can be established. His objection is the substantial impact on Village right-of-way, i.e., the area along the road is Village property and there was a significant amount of trees removed. He brought 4 photographs of the area to show the Board Members and asked that they be made part of the record.

Ms. Newmann stated that only dead trees, poison ivy, and vines were removed, no living trees were taken down and she even planted trees.

Susan Stevens, Meadowdale, was concerned about keeping Franklin's natural beauty, by not removing all of the growth as is present on every lot along that street.

Sharon Tischler, Beverly Hills resident and Southfield Township Clerk, clarified the comments about the top of the proposed fence. In regards to the "spears" at the top of the fence, Animal Control has

found that deer will jump the 3 ft. height but not the 6ft. height. However, at the 4 ft. height deer sometimes become impaled on the spears.

There was a discussion as to where the right-of-way is. Dinnan does not have the dimensions so could not be definitive. Dinnan stated that there is no question that the location of the new fence is definitely within the setback area; but how far and where is undetermined because the appellant did not locate where that was, and had not provided measurements and/or a survey.

Brakeman said that according to the Ordinance a permanent feature cannot be in the right-of-way. The ZBA has the ability to grant a variance in the setback, but it has no rights to grant a variance in the right-of-way.

Sullivan clarified that within the new obstruction ordinance, the obstructions that are prohibited are anything within 3 ft. of the road edge and more than 4 inches tall. The right-of-way ordinance does not regulate anything more than 3 ft. away from the road.

Brakeman summed up the consensus of the Board. Before the Board gets to the point of "Finding of Facts" it needs to know where the right-of-way of the road is and how far off the road the proposed fence will be in relationship with the setback.

Dinnan noted that if the appellant supplies him with a copy of the survey he can see where the right-of-way is. The fence would have to be located 2 ft. beyond the right-of-way in the setback area. If the fence is located in the right-of-way the owner would have to ask the Village Council for a variance. If in fact, there are no markings on her property, it will be necessary for her to hire a surveyor.

**Motion by Brakeman, seconded by Meyer, to defer the decision on this matter.**

**Approved unanimously.**

**Motion by Brakeman, seconded by Dabich to defer the decision on this matter until which time a survey is obtained to determine the road right-of-way and the location of the setback and also where the trees are on the property relative to a straight line.**

**Ayes: Brakeman, Couger, Dabich, Gallasch, Meyer, Moenck, Stein**

**Nays: None**

**Motion carried.**

#### **V. APPROVAL OF MINUTES: August 15, 2013**

**Motion by Moenck, seconded by Couger, to approve the minutes of August 15, 2013 ZBA meeting.**

**Ayes: Brakeman, Couger, Dabich, Gallasch, Meyer, Moenck, Stein**

**Nays: None**

**Motion carried.**

#### **VI. ADJOURNMENT**

There being no further business, by unanimous agreement, the meeting was adjourned at 8:40 P.M.

Respectfully submitted,

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Gail Beke, Recording Secretary

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Eileen H. Pulker, Clerk