

**VILLAGE OF FRANKLIN
SIGN BOARD OF APPEALS
ZONING BOARD OF APPEALS
REGULAR MEETING
Thursday, September 17, 2015 at 7:00 P.M.
At the Franklin Village Hall
32325 Franklin Road, Franklin, Michigan**

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 7:00P.M.

II. ROLL CALL

Present: Randy Brakeman, Bill Couger, Bruce Kueck, Matthias Meyer, Dean Moenck, J. Bennett Donaldson (arrived at 7:02P.M.)

Absent: Fred Gallasch

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 September 17, 2015 Regular Zoning/Sign Board of Appeals meeting, as presented and published.

Ayes: Brakeman, Couger, Donaldson, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

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

IV. NEW BUSINESS

**A. Case: #15-02
Appellant: Kermala Dudley
Property: 32717 Haverford
Parcel: 24-05-204-014
Zoning: R-2**

Description of Proposed Request: Garage

The Applicant is requesting that the Zoning Board of Appeals grant variances regarding a new garage, as follows:

1. The Village of Franklin Ordinances being section 1268.13 (b) states in part that in no instance shall such attached accessory building be nearer than ten feet to any adjoining lot line. The planned garage location has a side yard setback of 3 feet, in violation of the ordinance of 7 feet.

Bill Dinnan, Building Official, presented the case to the ZBA, noting that the applicant is requesting a variance for a new garage. There are some extenuating circumstances which the appellant will elaborate upon. The original application of a 3 foot setback was submitted and denied. A new site plan was submitted indicating that the garage would be moved over to the 10 foot mark and a permit was issued. Upon the foundation inspection it was revealed that there was a grinder pump that was not shown on the original plan that was submitted. The way the foundation was excavated the

grinder pump cover and the line going to it would be directly in front of the building. He informed the contractor onsite at that time that this issue needed to be addressed. At this point in time, the foundation had not been poured; however, it was subsequently poured pursuant to a permit issued with some erroneous information. The Village Office and the Water Resource Commission have had conversations about this issue.

Jerome Greenbaum, an attorney with the firm representing the appellant, clarified that the new information was included in the packet, and was placed at each Commissioner's seat at the dais, and stated that the affected neighbor on the North edge of the property had no objection to the placement of the new garage. He corrected some typos in the letter from Richard Rattner, attorney representing the applicant: first sentence on page 2-*third class* should read "third classic"; first sentence on page 6-*rto* should read "with respect to".

Richard Rattner, N. Old Woodward Ave. and Captains Lane, attorney representing the appellant, Kermala Dudley, stated he looked at this request for a variance in three (3) ways: a brief history of what happened; the physical condition of the property causing the practical difficulty; and the details of the physical condition of the property. History: Construction was stopped not because the appellant didn't have a permit, but because the permit that was issued was based on incorrect information, that being a grinder pump in the driveway in front of the new garage. Physical condition of the property: the lot is wide in the front, narrowing to the back lot line (pie shaped). Practical difficulty: included the shape of the lot; the location of the existing grinder pump; and the easement requirement of 10 feet from the side property line. The appellant is requesting the side setback be reduced to 3 feet. Neighbors next door have no objections to this. He referred to his detailed letter to the Commissioners, dated 9/14/15, highlighting several requirements of the Ordinance and ZBA standards for variances.

Ms. Dudley explained that the new garage would house two (2) classic cars she inherited from her recently deceased father.

Moenck and Couger inquired if there were any issues with the discharge pipe from the grinder pump running under the driveway. Dinnan advised that through conversations with the Oakland County Water Resource department, he understood that the pipe was fine at that location but the Grinder Pump and its' casing and the lid. The existing grinder pump could not be moved, so it would require that a new pump and casing be installed, which would be very expensive.

Brakeman clarified with Dinnan the timeline of the application for a permit and the issuance of the stop work order on August 12, 2015.

Rattner noted that his firm was hired after Dinnan's letter (8/12/15) suspending the building permit. Brakeman asked Dudley for further details following the issuance of the stop order.

Public Comments:

Frank Mastroinni, owner of Italy American Construction, addressed the Board explaining the company's point of view of the situation, emphasizing the company has documentation to support his claims. He introduced his son, Michael, who, as the

company's representative, spoke with the current homeowner and discussed the contract. He disputed some of the facts that had been presented.

Brakeman stated that the ZBA was not to determine blame and explained further that what was currently before the Board is a request for a 7 foot variance on a side yard setback. He also explained to Mastroinni the different reasons to come before the ZBA.

Michael Mastroinni detailed his involvement with the homeowner and answered questions from the ZBA to clarify points.

Brakeman closed Public Comments at 7:45 PM.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for variances for a new garage:

1. The Property Address is 32717 Haverford.
2. The Parcel ID is 24-05-204-014.
3. The Zoning is R-2.
4. The property is not in the Historic District.
5. The owner is requesting a 7 ft. variance on a 10 ft. setback.
6. Construction has already started.
7. The property is relatively flat by comparison to others that may have a steep ravine and no backyard.
8. The large trees are behind at the upper right corner of the property and will not be damaged by construction.
9. The Building Official stated that the original application and supplement application did not show the grinder pump on the request for permit as indicated.
10. Presently, there was a stop order in effect.
11. According to the original builder, they were aware that the grinder pump was in front of one of the garage doors.
12. The lot is an irregular shape.
13. The foundation as it exists is in compliance with the 10 ft. setback.
14. The construction of the garage would keep the cars out of the driveway.
15. The neighbor to the North submitted a letter supporting the variance for the new garage.
16. Relocating the grinder pump would be cost prohibitive.
17. Owner's signature is on the plan provided to the ZBA.

Motion by Couger, seconded by Kueck, that the Board members consider the Proposed Findings of Facts, and if you believe a decision regarding these 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, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

Motion by Donaldson, seconded by Couger, that each member of the ZBA, using the approved Findings of Facts, consider the facts, and deny the Appellant's request for a 7 ft. setback variance for a new garage.

Ayes: Brakeman, Couger, Donaldson, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

B. Case: #15-03
Property: 26881 Captains Lane
Parcel: 24-06-126-001
Zoning: R-1

Description of Proposed Request: Backyard Fence

The appellant is requesting that the Zoning Board of Appeals grant variances regarding the construction of a fence, as follows:

1. The Village of Franklin ordinance 1268.28 (b)(5)A. states that 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.

Request 1. For a fence located in a side yard abutting a street in the required setback area to the north of the house and within 40 feet of the required setback of 14 Mile Road property line.

Request 2. For a fence located in the defined front yard to the south of the house and adjacent to an unimproved Orchard Lane as a front yard.

Bill Dinnan, Building Official, presented the case to the ZBA, noting there are two requests for variances: to install one fence in a side yard and one in the front yard from the house south to an unimproved road. This particular property is not in the Historic District which ordinance 1268.28(b)5(A) refers to, thusly does not apply to this case. However, there are two (2) side yards that are relevant.

Eric Grossinger, owner of the property, addressed the ZBA, noting he wanted to replace the existing 4 ft. chain link fence along 14 Mile Rd. with an ornamental steel fence of the same height. He would like to connect it to the northwest corner of his home. On the south side of his home a 4 ft. fence with a gate would run from the southwest corner of his home to the existing chain link fence along the unimproved/undeveloped Orchard Lane. Casey Fence Company would be installing a picket fence with 3 horizontal rails with no spikes.

Public Comments:

Judy Meade, Captains Lane, expressed her support for the projects.

Eileen Pulker, Village Clerk, received 2 letters from neighbors supporting the construction of the two fences.

Spencer Minns, 14 Mile Rd, was favorable of the fences and the enhancements to the property.

Rick Rattner, Captains Lane, was favorable of the fences and very complimentary towards of the improvement of the neighborhood.

Brakeman closed Public Comments at 8:30 PM.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for variance for the construction of a fence on the south side of the home:

1. The address is 26881 Captains Land.
2. Parcel ID. is 24-06-126-001.
3. Zoning is R-1
4. A chain link fence was removed during the construction of the new home.
5. The southern side yard is adjacent to the unimproved/undeveloped Orchard Lane.
6. There is a nonconformity along the roadway, along the lot line.
7. The opacity conforms.
8. No points on top in the design will protect animals.
9. The proposed fence would connect the house with the existing nonconforming chain link fence, that is at least 50 years old, which predates the Village's Fence Ordinance.
10. It is a health and safety issue, along a heavily traveled street.
11. Three letters of approval by neighbors were received and several neighbors spoke in support.
12. It is a new home.

Motion by Couger, seconded by Moenck, 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 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, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

Motion by Couger, seconded by Moenck, that each member of the ZBA, using the approved Findings of Facts, consider the facts, and if he believes the facts warrant approval of the Appellant's request for a fence located in the defined front yard to the south of the house and adjacent to an unimproved Orchard Lane as a front yard, he should vote "Aye" and if he does not believe the facts support the variance, he should vote "Nay".

Ayes: Brakeman, Couger, Donaldson, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for variance for the construction of a fence located in a side yard abutting a street in the required setback area to the north of the house and within 40 feet of the required setback of 14 Mile Road property line.

1. The address is 26881 Captains Land.
2. Parcel ID. is 24-06-126-001.
3. Zoning is R-1
4. A chain link fence was removed during the construction of the new home.
5. The southern side yard is adjacent to the unimproved/undeveloped Orchard Lane.
6. There is a nonconformity along the roadway, along the lot line.
7. The opacity conforms.
8. No points on top in the design will protect animals.
9. The proposed fence would connect the house with the existing nonconforming chain link fence, that is at least 50 years old, which predates the Village's Fence Ordinance.
10. It is a health and safety issue, along a heavily traveled street.
11. Three letters of approval by neighbors were received and several neighbors spoke in support.
12. It is a new home.
13. The requested northern fence borders a heavily traveled street and will keep the dogs off of 14 Mile Road.
14. The requested fence would replace a non-conforming chain link fence.
15. The pieced together fence from the part of the fence from 14 Mile Rd. to the former side of the old house encloses the yard.

Motion by Meyer seconded by Kueck, 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 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, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

Motion by Donaldson, seconded by Meyer, that each member of the ZBA, using the approved Findings of Facts, consider the facts, and if he believes the facts warrant approval of the Appellant's request for a fence located in a side yard abutting a street in the required setback area to the north of the house and within 40 feet of the required setback of 14 Mile Road property line, he should vote "Aye" and if he does not believe the facts support the variance, he should vote "Nay", and replacing the non conforming fence material with a black metal fence that will apply existing standards.

Ayes: Brakeman, Couger, Donaldson, Kueck, Meyer, Moenck

Absent: Gallasch

Nays: None

Motion carried.

V. APPROVAL OF MINUTES: September 18, 2014.

Motion by Moenck, seconded by Kueck, to approve the minutes of September 18, 2014 ZBA meeting.

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

VI. ADJOURNMENT

Motion by Brakeman supported by Meyer to adjourn the meeting.

There being no further business the meeting was adjourned at 8:55P.M.

Respectfully submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk