

**VILLAGE OF FRANKLIN
ZONING/SIGN BOARD OF APPEALS
REGULAR MEETING
Thursday, March 17, 2016 at 7:00 PM
At the Franklin Community Center/Kreger House
26225 Carol, 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 Community Center, Kreger House, Franklin, Michigan at 7:00 PM.

II. ROLL CALL

Present: Randy Brakeman, Bill Couger, J. Bennett Donaldson, Fred Gallasch, Bruce Kueck, Matthias Meyer, Dean Moenck

Absent: None

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

III. ADOPTION OF AGENDA

Motion by Moenck, seconded by Gallasch to adopt the Agenda for the March 17, 2016 Regular Zoning/Sign Board of Appeals meeting, as presented and published.

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

Nays: None

Motion carried.

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

IV. NEW BUSINESS

A. Case: #16-02

Appellant: Sri & Priya Bramadesam

Property: 25670 River Drive, Franklin, Michigan

Parcel: 24-05-104-003

Zoning: R-L

Description of Proposed Request: Fence

The Applicant is requesting that the Zoning Board of Appeals grant a variance regarding a fence with the required set back.

The Village of Franklin Ordinance being section 1268.28 (b) (5) A, Permitted Location in an R-L District as follows:

No fence shall be constructed within the required set back; 50 feet required.

Bill Dinnan, Building Official, presented the case to the ZBA, stating that there had been an existing split rail fence on the side yard, located within the 50 feet required

set back of the Redfern property line, which was subsequently torn down and replaced with a newer one at the same location. Technically, if a fence is removed the replacement fence must have a permit before construction and its installation must comply with all applicable Ordinances. Dinnan added that the Building Department procedures had changed requiring now that no pool permit would be issued without an accompanying fence permit. Dinnan also noted currently there was a temporary chain link fence around the pool for safety reasons but it would be removed when the landscaping was complete. The new fence would then encase the entire backyard and serves the safety requirement around the pool.

Brakeman clarified that this was a request for a permit after the fact. Dinnan stated that the new fence did not comply with the Ordinance.

Moenck clarified that the existing fence along Redfern was on the property line and not in the road right of way.

Sri and Priya Bramadesam, owners of the property, explained that the Historic District Commission (HDC) had reviewed their request to demolish the house and the three (3) barns in the backyard. It was determined that the barns were historic, so the HDC requested that they not be demolished. It was the owners' understanding that the fence could be replaced as the original one was dilapidated. If the location of the fence were to be moved it would cut through one of the historic barns and create an unattractive zigzag line around the property. The fence was also for protection of the outbuildings against the recent break-ins along 14 Mile Road. The three (3) barns have been refinished on the outside and painted to match the house.

Brakeman noted that three (3) neighbors had submitted letters in support of the current fence location: Chetan and Mona Patel, Redfern; Eva and Steve Goren, Redfern.

Neal and Sarah Krasnick, River Drive opposed the variance request, but thought that a variation of the variance might be acceptable. Krasnick's noted that it was their opinion that at the juncture of the old fence and the new fence there should be a separation, and they suggested some landscaping.

Dinnan reminded the Board that the variance of 50 feet had been advertised but it could consider a variance of less than what the request was for and it need not be re-advertised for the lesser amount.

Connie Ettinger, River Drive, expressed her opposition to the location of the new fence and added that according the Village Ordinances, Chapter 1268.28 (b)(8)(B) the

corner of the property required that the fence height be no more than thirty (30 inches, which would not be sufficient for pool safety requirements.

Mark Ziessow, Redfern, provided historical background on the barns and the construction of the original fence. He also provided information regarding a former variance granted to the neighbor (Patel) which is the reason why their driveway is closer to the property line.

Pam Hansen, Wing Lake questioned the placement of the rear fence which seems close to the neighbor. Dinnan explained that the fence ordinance allowed that placement.

Discussion ensued and board members questioned Dinnan to clarify several points.

Mark Ziessow shared that the side driveway to Redfern was used to access the outbuildings where vehicles were stored and for the lawn company's use, all for the previous owners.

Motion by Meyer, seconded by Donaldson, to close the discussion

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

Nays: None

Motion carried.

Brakeman asked that the members keep in mind the definition of "Nonuse Variance" which was provided in the ZBA packet when considering the "practical difficulties" due to the circumstances unique to the property. The outbuildings were discussed, noting that the placement and number, three (3), of the outbuildings were legally non-conforming, as their construction predated the Zoning Code for the Village. The following four (4) questions were posed and discussed:

1. Whether strict compliance with area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome (economic hardship is NOT an acceptable reason for granting a variance).
2. Whether a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.
3. Whether the plight of the owner is due to unique circumstances of the property.
4. Whether the problem is self-created (does the appellant have a true need or is this a desire?)

Brakeman also explained that the ZBA must always ensure that the “spirit of the observation is observed, public safety secured and substantial justice is done”.

Motion by Meyer, seconded by Gallasch to list the Finding of Facts.

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

Nays: None

Motion carried.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance regarding a fence within the required set back:

1. The Property Address is 25670 River Drive.
2. The Parcel ID is 25-05-104-003
3. The Zoning is R-L.
4. Legally non-conforming split rail fence was removed and replaced with a new fence in the same location.
5. Three (3) outbuildings are legally non-conforming both in number and in placement, with a portion of one (western most building being within the setback.
6. While not a part of the Village Historic District, the Historic District Commission (HDC) had reviewed the three (3) out buildings during their review of the property brought before them for demolition. Their findings were that the outbuildings were of historical value and requested that they be kept intact, even though the dwelling was to be demolished.
7. The height of the fence at the Northwest corner of the property is in violation of the driver visibility requirements of a driveway that is adjacent to a street.
8. The lot is a corner lot with a front yard and a side yard with similar setbacks.
9. Three (3) letters were received in favor of the variance and two (2) neighbors spoke in opposition of the variance.
10. A variance of 25 feet or less would negate the corner requirement for fence height and would allow for the 48 inch height to remain.
11. Pool fence height requirement is forty eight (48) inches.
12. The owners have stated that the fence is to be considered the pool perimeter fence.
13. The chain link fence currently surrounding the pool will be removed upon completion of the landscaping project.
14. The four (4) Nonuse Variance conditions were reviewed and considered.

Motion by Moenck, seconded by Couger, 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, Gallasch, Kueck, Meyer, Moenck
Nays: None
Motion carried.

Motion by Meyer, seconded by Kueck to allow the fence to be two (2) feet off the corner of the western most outbuilding, consistent for the length of that side, designed to follow the curve of the road, granting for placement of the fence of at least 25 feet from the road.

Ayes: Brakeman, Couger, Donaldson, Kueck, Meyer, Moenck
Nays: Gallasch
Motion carried.

V. APPROVAL OF MINUTES: February 18, 2016

Motion by Gallasch, seconded by Meyer to approve the minutes of February 18, 2016 Zoning Board of Appeals meeting as presented.

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

VI. ADJOURNMENT

Motion by Brakeman, seconded by Gallasch, to adjourn the meeting.

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

There being no further business, the meeting adjourned at 8:25 PM.

Respectfully submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk