

**VILLAGE OF FRANKLIN
SIGN BOARD OF APPEALS
ZONING BOARD OF APPEALS
REGULAR MEETING**

**Thursday, August 17, 2017 at 7:00 P.M.
At the Franklin Village Hall
32325 Franklin Road, Franklin, Michigan**

Before the meeting, Eileen Pulker, Village Clerk, swore in Bruce Kueck and Dean Moenck for another term of three (3) years.

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 7:00 P.M.

II. ROLL CALL

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

Absent: Bill Couger (excused)

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

III. ADOPTION OF AGENDA

Motion by Moenck, seconded by Donaldson to adopt the Agenda for the August 17, 2017 Regular Zoning/Sign Board of Appeals meeting, as presented and published.

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

Nays: None

Absent: Couger

Motion carried.

IV. ELECTION OF OFFICERS

Motion by Moenck, seconded by Gallasch to continue with the same officers, with Brakeman as Chairman and Bill Couger as Vice-Chairman.

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

Nays: None

Absent: Couger

Motion carried.

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

V. NEW BUSINESS

A. Case: #17-03

Appellant: Joel and Lisa Elconin

Property: 32560 Scenic Lane, Franklin, Michigan

Parcel: 24-06-151-038

Zoning: R-1

Description of Proposed Request:

The Applicant is requesting that the Zoning Board of Appeals grant a variance regarding a New Home Construction, as follows:

The Village of Franklin Ordinances being the Schedule of Regulations, Appendix B, Zoning District R-1, requires a front yard setback of 50 feet. Dinnan added that this was a

unique piece of property in that it did not front a public road right of way. That being the case, the Ordinance Section 1240.08 (85) defines the front yard while Section 1240.08 (48) (A) defines the front lot line. The setback per these sections shall be taken from the easement right of way. The proposed plan indicates that dimension to the 29.13 feet. Therefore, this is a violation of the Ordinance of 20.87 feet. There are other portions of the front of the building that are also in violation however the garage portion is the area where the violation is the greatest. A variance for a lesser amount can be granted.

Bill Dinnan, Building Official, presented the case to the ZBA and provided a brief historical background of the property. He also elaborated in the locations of the other houses on the lane, mentioning the complexity of the lot and the requirements of the ordinance as it applied to this lot, all of which he stated in his letter dated, March 28, 2017.

The Commissioners inquired about the dimensions of the proposed house in relation to the lot.

Brian Neeper, architect for the project, and Alfredo Casab, Attorney, described the unique features of the irregular lot, including the different elevations of the property and the location of the well. Casab stressed that there were some serious practical issues and detailed them. Lisa Elconin, owner of the property, also pointed out that the relocation of the well would be difficult because of the many levels of the property and if it and the position of the house needed to be changed some trees would have to be cut down, which was not desirable. Casab was not in favor of a lesser variance as the proposed location of the house was perfect on this particular lot.

David Schmerin, owner of Bingham Development, LLC, responded to Brakeman's inquiry about building a house over a well. According to past experience, Oakland County would not issue a permit for a well placed in a garage, due to many factors, including providing proper servicing of the well. A grinder and septic system are planned for the site. Brakeman also suggested moving the garage forward to the east, which was the largest portion of the requested variance. Schmerin stated that it would be difficult to move the garage back due to the increase elevation.

No tree survey was performed, however, Joel Elconin, owner, assured the Board that they would make every effort to preserve all the trees on the perimeter of the property. Dinnan briefly explained the Tree Ordinance.

There was a discussion about what the impact would be if the garage were to be moved.

David Wenger, Scenic Lane, lives across from the property. He was positive about the design of the proposed house but was concerned about the erosion run off into his property due to the pitch of the property. Dinnan explained that with Scenic Lane being private this would be a civil matter between property owners and would need to be addressed by them, not the Village.

Brakeman stated that all public comments should relate to the request for a variance. With that in mind, Wenger was not in favor of the requested variance permitting the garage to be so close to the road, due to a possible increase of runoff into his property.

Lovina Peddie, Scenic Lane, has lived on Scenic Lane for 43 years. She stated her concern about the 29 ft. from the garage to the road. Franklin prides itself for having big trees and foliage and the closeness of the structure to the road would be detrimental.

The Village Clerk received two (2) letters supporting the requested variance.

Discussion ensued regarding several issues: the request of a variance being driven by preference and not hardship, a tree survey might be beneficial, a possible change in grade, and the rotation of the house in order to reduce the infringement in the setback.

Brakeman explained the available options to the owners and builder.

At 8:00 PM a short break was called, with the meeting resuming at 8:10 PM.

The builder, on behalf of the applicant, withdrew the request for a variance.

B. Case #17-04

Appellant: David Masko, Architect
Property: 26023 German Mill, Franklin, MI
Parcel ID: 24-06-277-005
Zoning: R-3

Description of Request: The appellant is requesting that the Zoning Board of Appeals grant a variance regarding the addition – remodel and privacy fence, as follows:

1. The Village of Franklin Ordinances being the Schedule of Regulations, +Zoning District R-3, side yard setback is required per the schedule of 10 on the least side and 25 on both sides. The site plan shows a proposed 5 foot sideyard setback to the east property line, therefore in violation of the ordinance of 5 feet.
2. Ordinance 1268.28 (d) (2) states that a privacy screen shall not be located in a required yard setback area. The plans indicate a proposed privacy screen with a side yard setback of 5 feet, therefore a violation of the required side yard setback area of 5 feet.

Bill Dinnan, Building Official, presented the case to the ZBA, stating that the property was located in the Historic District. At its August 3, 2017 meeting the HDC approved the proposed addition and renovation and recommended that ZBA approve the two (2) variance requests.

David Masko, architect for this project, stated that he lives on German Mill. He made a presentation with photos of the house, streetscape, and other homes in the neighborhood and gave a brief history of the home and its additions. He listed the hardships of the non-conforming property: the existing grinder pump is located in the middle of the back yard with the sewer line between the house and the existing garage, the house itself is skewed within the property line and the house to the east is within eight (8) inches of the property line. The proposed addition of a Master Bedroom Suite was designed to step back in order to miss the sewer pump. A new foyer addition was also proposed but was not at issue tonight. The new addition would be no closer to the property line than the existing house was now.

There was a discussion about the privacy fence. Masko noted that the fence was to screen the new enlarged rectangular kitchen and small patio area from the back of neighbor's house and the two (2) air conditioning units and generator belonging to the neighbor, all of which were not screened.

There were no public comments.

The Village received two (2) letters: one in favor of the granting of the two (2) variances and one opposed to the granting of the two (2) variances. Masko received one (1) verbal support from another neighbor, of the two variances.

Dinnan suggested that the two (2) variances be considered separately, not as one (1).

The Zoning Board of Appeals made the following Findings of Facts with respect to the Request for a side yard setback for an addition and remodel and privacy fence:

1. The Property Address is 26023 German Mill.
2. The Parcel ID is 24-06-277-005.
3. The Zoning is R-3.
4. The location of the property is in the Historic District.
5. The Village received one (1) letter and one (1) verbal comment in support of the request for the variances and one (1) letter opposed to the request.
6. The HDC has approved the application for the addition/remodel and recommended that the ZBA approve it as well.
7. The home is legally non-conforming on a pre-existing, legally non-conforming lot.
8. The setback request for a privacy screen and house addition does not approach on the setback any more than it currently was.
9. The additional bedroom will make it a three (3) bedroom house which is similar to other homes in the neighborhood.
10. The side yard setback to the east will still have a larger green path than the neighbor's.
11. The addition conforms to the Oakland County's distance requirement for a grinder pump.
12. The ZBA must adhere to Chapter 1244.07 (d) Standards of Variances.
13. The one-storey addition is differentiated by but not evident from the historic front side of the house.
14. The house was constructed pre-zoning ordinance.

Motion by Moenck, seconded by Meyer, that the Board members consider the Proposed Findings of Facts with respect to the request for a variance regarding a 5 foot side yard setback to the east property line side yard and the proposed privacy fence within the same 5 foot side yard setback at 26023 German Mill, 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 Facts are appropriate for making a decision you should vote "Nay".

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

Nays: None

Absent: Couger

Motion carried.

Motion by Moenck, seconded by Meyer, that each member of the ZBA approve the variance requested based on the approved Findings of Facts, for 26023 German Mill and of the Appellant's request for a variance regarding a 5 foot side yard setback to the east property line side yard for a building addition, he should vote "Aye" and if he does not believe the facts support the variance, he should vote "Nay".

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

Nays: None
Absent: Couger
Motion carried.

Motion by Meyer, seconded by Kueck, that each member of the ZBA approves the variance requested based on the approved Findings of Facts, for 26023 German Mill for the proposed privacy fence within the same 5 foot side yard setback.

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

Motion by Meyer seconded by Donaldson, that each member of the ZBA deny the variance requested based on the approved Findings of Facts, for 26023 German Mill for the proposed privacy fence with the same 5 foot side yard setback.

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

VI. APPROVAL OF MINUTES: March 16, 2017

Motion by Kueck, seconded by Donaldson to approve the minutes of March 16, 2017 ZBA meeting as presented.

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

VII. ADJOURNMENT

Motion by Brakeman supported by Moenck to adjourn the meeting.

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

There being no further business the meeting was adjourned at 9:17 P.M.

Respectfully submitted,
Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk