

**VILLAGE OF FRANKLIN
ZONING BOARD OF APPEALS
Thursday, November 15, 2012 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 Board of Appeals was called to order by J. Hailey, Chairman, at the Franklin Village Hall, Franklin, Michigan at 7:30 p.m.

II. ROLL CALL

Present: Randy Brakeman, Bill Couger, Sam Dabich, J. Hailey, Dean Moenck, Harold Stein

Absent: Joe Roisman

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

III. ADOPTION OF AGENDA

Motion by Moenck, supported by Couger to adopt the Agenda for the November 15, 2012 regular ZBA meeting as presented and published.

Ayes: Brakeman, Couger, Dabich, Hailey, Moenck, Stein

Nays: None

Absent: Roisman

Motion carried.

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

IV. NEW BUSINESS

- A. Case: #12-08
Appellant: Chandan and Madalasa Saha
Property: 32509 Haverford
Parcel: 24 05 201 008
Zoning: R-2, Medium Low Density Residential
Description of Proposed Request:**

The Applicant is requesting the ZBA to grant the variance for the following:

The Village of Franklin Ordinance being Appendix B. Schedule of Regulations requires a side yard setback equal to foot-note (b) which states that the total side yard setbacks to be equal to 1/3 the width of the lot, with the least side equal to or greater than 37% of the total. The least side setback is 20.22 feet on this property. Therefore, the appellant is requesting a variance of 2.22 feet to allow for the minimum side yard of 18 feet for an addition to their existing home. As a note, the original house is setback 18 feet on the same side which is currently an existing non-conforming condition.

Dinnan presented the case to the ZBA, emphasizing that the appellant has requested a building permit and has submitted a site plan. Dinnan gave each member a drawing of the property lines, the setback lines, and his calculations indicating a variance was necessary. He noted that when the house was built the original setback requirement was 18 feet and that under today's ordinances, it is considered a non-conforming setback and he advised the applicant to adhere to that distance when considering the new addition. He also had a discussion with the owners about possibly locating the new addition to the other side of the house but that would have been disruptive of the existing living space.

Mrs. Saha, owner of the property, introduced herself to the Board advising that she and her husband bought the house 5 years ago and had planned the addition as they had wanted more living space.

Public Comments:

There were no public comments and the Village did not receive any correspondences in regards to this matter.

The Zoning Board of Appeals made the following Findings of Fact with respect to a request for a side yard setback ordinance by 2.22 feet:

1. Case #12-08, 32509 Haverford, Parcel ID 24 05 201 008, Zoning: R-2, Medium Low Density Residential.
2. The Appellants Chandan and MadalasaSaha are requesting a variance of 2.22 ft. on the side yard setback so as to add more living space and add a 2-car garage.
3. The pre-existing house, which is legally non-conforming, extends into the side yard setback on the north side property.
4. The proposed addition will extend into the setback the same distance as is the pre-existing house.
5. There were no public comments or written letters for or against the variance.
6. The owners of the house were flexible enough to stay within the same setback distance as the original house.
7. The garage space will remain on the north side of the house, thus leaving the sleeping areas on the south side.
8. There is a sharp slope down to the south property line.

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

Motion by Hailey, seconded by Couger, 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 variance of 2.22 feet, he should vote "aye" and if he does not believe the facts support the variance, he should vote "nay".

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

B. Case: #12-09
Appellant: Dan and Elina Costello
Property: In the rear of 32749 Franklin Road
Parcel ID: 24 06 203 019
Zoning: C-1, Local Business District

Description of Proposed Request:

The Appellants are requesting that the ZBA grant variances for the following:

1. To install a fence – wire mesh (as shown on the site plan, date October 17, 2012). The Village of Franklin Ordinance being Section 1268.28 (b)(2) A, Fences, specifically states that wire mesh is prohibited.

Dinnan presented the case to the ZBA. Hailey asked Dinnan for the exact wording in the Ordinance dealing with prohibited materials. Dinnan stated that his interpretation deems the portion at the bottom of the stairs a “fence” and he clarified that “...a fence is a fence no matter where it is...”, whether it be in a commercial area or in a residential area, but the guardrail which goes up the stairs and around the upper deck is not. The exact location of the fence was determined to be within the property lot line. Brakeman’s inquiry about what alternatives were acceptable fencing materials was answered by Dinnan: wood, stone, brick, wrought iron or other materials deemed acceptable that mimics those materials listed in the Ordinance.

Bill Finnicum, Finnicum Brownlee Architects, the project architect for the conversion of the Historic barn, passed out floor plans to the ZBA to demonstrate how the 12ft. long and 4 ft. wide fenced area is intended to be an entrance to the upper residential part of the barn. The 4 foot fence transitions into the guardrail that goes up the stairs and around the deck. He stated that one of the hardships is that this is an historic building and the HDC asked that the stairs be located on the other side (south side) of the barn. The stair and deck guardrails, being subject to the guidelines of the Secretary of the Interior’s Standards for Rehabilitation, will be made of galvanized steel mesh which, according to Finnicum will not rust, but will be as transparent as possible and thusly, not obscure the original barn features.

Finnicum continued by saying that the HDC has approved the plans and was very enthusiastic about the contrasting materials and the continuity and harmony of the way the fence merges with the guardrail on the second floor. He explained the construction of the wire mesh and the fence itself.

Brakeman asked for an explanation as to why Finnicum selected galvanized steel as opposed to stainless. Finnicum replied that galvanized was more appropriate with the historic context and it is also an agricultural material. It’s a philosophical decision.

Public Comments:

Diane Lane, Crestwood, asked if the Historic District Commission (HDC) motion approving this was made available to the ZBA. The answer was affirmative as the Clerk had provided it tonight. Clarification was made that the ZBA considers practical difficulties, not aesthetics, unless in the cases involving historic properties where aesthetics can be included in the ‘Findings of Facts’.

Roger McClow, Franklin Road, expressed his concern that if the ZBA denied the variance it would look odd if the material of the fence going up the stairs was different from that of the 2nd floor deck.

Suzanne McClow, Franklin Road, asked for clarification of the HDC’s approval of the fence.

Dan Costello, owner of the property, explained that they had had a working meeting with the HDC before the formal presentation to discuss the preliminary plans and that there had been talk about other materials for the fencing. The HDC fully relied on the Secretary of Interior’s Standards for Rehabilitation recommendation for transparency; thus, the material was considered not only for structural purposes but also for its transparency.

Hailey indicated that the Village Office received 1 email in favor of the variance.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request to install a fence – wire mesh (as shown on the site plan, October 17, 2012), subject to the Ordinance as stated by the Building Official.

1. Case #12-09, In the rear of 32749 Franklin Road, Parcel ID: 24 06 203 019, Parcel B, Zoning: C-1, Local Business District.

2. Franklin Village Ordinance Section 1268.28(b)(2) A., states that fences, specifically states that wire mesh is prohibited.
3. This is a building and property in the Historic District.
4. Applicant has worked with the HDC to establish property which it deems to be within the guidelines of the Secretary of Interior's Standards for Rehabilitation. As such the location of the stairway and fence have been changed from one side of the structure to the other at the HDC's request.
5. The structure which is under consideration has a fence about 12 ft. long by 4 ft. high which extends from the start of the barn with an entry gate to the steps going up to the 2nd floor deck.
6. It conforms with the Secretary of Interior's Guidelines for the protected historic building to be fully viewed through the fence.
7. It meets all codes and has the HDC approval.
8. The proposed material is galvanized wire mesh and has been approved by the HDC.
9. The applicant had proposed a fence that is in concert with the stairway and the guardrail on the upper deck which gives a uniform appearance and still allows full visibility of the building.
10. One written comment was received in favor of granting the variance.
11. There were three (3) speakers who had questions and were neutral to the granting of the variance.

Motion by Stein, supported by Moenck, that each member of the ZBA consider the proposed Findings of Fact, and if you believe a decision regarding this variance request should be made using the above Findings of Fact indicate this 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: Brakeman, Couger, Dabich, Hailey, Moenck, Stein
Nays: None
Absent: Roisman
Motion carried.

Motion by Hailey, seconded by Couger, that each member of the ZBA, using the approved Findings of Fact, consider the facts, and if you believe the facts warrant approval of the Appellant's request for the variance to install a wire mesh fence one should vote "aye" and if one does not believe the facts support the variance one should vote "nay".

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

C. Case: #12-07
Appellant: Dan and Elina Costello
Property: In the rear of 32749 Franklin Road
Parcel ID: 24 06 203 019
Zoning: C-1, Local Business District

Description of Proposed Request:

The Appellants are requesting that the ZBA grant a variance for the following:

2. To allow a five (5) foot high cedar fence to match existing fence for protective screening with four (4) five foot to six foot arbor vitae nigra to be installed on the barn property side of the fence (as shown on the site plan, dated October 17, 2012) which is a variance from the Village of Franklin Ordinance being Section 1268.29(a), Protective Screening, adjacent residential property.

Dinnan explained that the second case involves the installation of a screening fence along the property line to screen a residential property from a commercial. He further explained that there are different methods to provide this protective screening: to install a masonry wall which would take away the visual view of the building or a landscape barrier/area, which, according to the Ordinance is required to be a minimum of 20 feet. The applicant is proposing a fence to match an existing fence and a landscape barrier.

Dinnan mentioned that he and the Village Administrator met with the Fire Chief since the existing fence is actually on the property of the house owned by Fire Department. The Fire Chief was pleased with the proposed plan.

Finnicum, of FinnicumBrownlee Architects, answered a ZBA question. The purpose of the screening is to block headlights which can be accomplished with a 4-6 ft. masonry wall, a 20ft. vegetative screening, or the building abutting itself. He mentioned a "practical hardship" being that this proposal is an amendment of an existing site plan granted in 2007. The screening was old at that time and not continuous, thus, Finnicum's proposal is to complete the existing fencing. He passed out some photos to the ZBA showing the existing fencing and vegetation.

Roger McClow, Franklin Road, stated that his biggest concern is that there are Ordinances on the books and opined that when people go into a project they should be cognizant of those Ordinances before the start of the project. McClow added that Ordinances are not only for the commercial properties but are also for the protection of the residents and should not be disregarded. McClow stated that he is in favor of a masonry wall running the entire length of the residential property to screen it from headlights, noise, and activity emanating from the commercial property activities and also separates the residential area from the commercial.

Suzanne McClow, Franklin Road, stated that she would like to see the "Fire Department" house remain residential in the future and treated as such. She and her husband talked with the current renters of the property who expressed their concerns about this project. She emphasized that, although it is currently owned by the Fire Department, it is a residential property that needs to be protected for the future when it might not be owned by the Fire Department. She opposed the variance for the same reasons as her husband.

Finnicum addressed the issue of the materials for the screening adding that in the near future a request for an Ordinance change will be introduced to the Planning Commission to address the fact that masonry walls are deemed incompatible with the Historic District in many instances.

Dinnan reminded the ZBA that the Costello application was not for a masonry wall and it should only respond to that which is on the application.

Brakeman asked Dinnan for a clarification of the Ordinance in reference to the variance being requested.

The Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance to allow a five (5) foot high fence with four (4) five foot to six foot arbor vitae to be installed on the barn property.

1. Case #12-07, In the rear of 32749 Franklin Road, Parcel ID 24 06 203 019, Zoning C-1, Local Business District
2. Appellants (Dan and Elina Costello) are requesting a variance to allow a five (5) foot high cedar fence to match the existing fence for protective screening with four (4) five foot to six foot arbor vitae nigra to be installed on the barn property side of the fence (as shown on the site plan, dated October 17, 2012) which is a variance from the Village of Franklin Ordinance being Section 1268.29(a), Protective Screening, adjacent residential property.

3. The Ordinance cannot be met because of the size and shape of the property.
4. Currently there are 4 fences already in place for residential property and commercial property on the premises. This is a request to conform and extend the existing fencing.
5. The materials will be similar so as not to introduce any new material.
6. HDC has approved this proposed project.
7. The fence extension is 24 ft. and will not obscure the historic building.
8. There were two (2) speakers opposed to the variance and one (1) letter in favor of the variance.

Motion by Stein, supported by Brakeman, that each member of the ZBA 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 this 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: Brakeman, Couger, Dabich, Hailey, Moenck, Stein
Nays: None
Absent: Roisman
Motion carried.

Motion by Hailey, supported by Couger, that each member of the ZBA, using the approved Findings of Fact, consider the facts, and if you believe the facts warrant approval of the Appellants’ request for the variance for the installation of a five (5) foot fence and four (4) five to six foot arbor vitae nigra on the barn property side of the fence, one should vote “aye” and if one does not believe the facts support the variance one should vote “nay”.

Ayes: Brakeman, Couger, Dabich, Hailey, Stein
Nays: Moenck
Absent: Roisman
Motion carried. Variance is granted.

V. APPROVAL OF MINUTES: October 18, 2012

Village Clerk will correct the typographical errors on page 1 and 3.

Motion by Brakeman, seconded by Dabich, to approve the minutes of October 18, 2012.

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

VI. ADJOURNMENT

There being no further business, by unanimous agreement, the meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk