

**VILLAGE OF FRANKLIN  
SIGN BOARD OF APPEALS  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
Thursday, May 19, 2016 at 7:00 P.M.  
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 7:05 P.M.

**II. ROLL CALL**

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

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

**III. ADOPTION OF AGENDA**

**Motion by Brakeman, seconded by Couger to adopt the Agenda for the May 19, 2016 Regular Zoning/Sign Board of Appeals meeting, as presented and published.**

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

**Absent: None**

**Nays: None**

**Motion carried.**

**IV. NEW BUSINESS**

**A. Case: #16-04**

**Appellant: Denise and Richard David**

**Property: 27201 Wellington Rd.**

**Parcel: 24-06-352-001**

**Zoning: R-L**

**Description of Proposed Request: Brick Ornamental Wall, not Natural Stone**

The Applicant is requesting that the Zoning Board of Appeals grant a variance regarding Village Ordinances, Chapter 1268, Section 1268.28 c (4) B. Natural Stone Walls, Perimeter features made from natural stone having a height not exceeding 30 inches can be located in a front yard or street side yard. The appellant is requesting an ornamental wall made of brick matching the house, instead of stone which is required by Ordinance.

Bill Dinnan, Building Official, presented the case to the ZBA, referring to the pertinent chapter and section which dealt with this issue. Dinnan stated that the footings for the wall were already in and the architect had sent him drawings with the appropriate height. The only element which didn't adhere to the Ordinance was the material of the ornamental wall.

Gallasch inquired if there was any issue that the fence was not parallel to the lot line but in the middle of the yard. Dinnan responded in the negative and added that in the Ordinance, it does not state that it had to be parallel to the street, or the lot line, or anything else. In Dinnan's opinion it was a fence in the front yard so it needed to meet the front yard requirements; the issue was the wall's material.

Roger Young, architect with Young & Young Architects, Inc., representing the appellants, explained that the proposed wall was “a visual extension of the existing masonry retaining wall at the front entrance.” He provided an overview and detailed description of the wall, pointing out the aesthetics of it with regards to it being a very subtle feature to the home and its established surrounding natural environment: the varying height elevation, the length and width of the wall, and the desired warm brown brick material. He further explained that the bricks would be of clay, hand molded, and twice fired for density, thus impervious to frost and thawing effects.

There was a lengthy discussion as to whether this item was a “fence” vs. a “sign” with the house address on it. There was also a discussion as to the definition of “natural material”.

**The Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance for a brick ornamental wall, not natural stone:**

1. The Property Address is 27201 Wellington Road.
2. The Parcel ID is 24-06-352-001.
3. The Zoning is R-L.
4. Location of the home is not in the Historic District.
5. It is a privately owned, new home, and is not exempt from any of the Village Ordinances.
6. The Building Official denied the application because the wall was not of natural stone.
7. The property is irregular shaped.
8. A letter from a Villager opposing the variance was the only communication received by the Village.

Brakeman emphasized that the responsibility of the ZBA was to interpret the Ordinances and make decisions based upon individual circumstances. The subject of “want or desire” vs. “practical difficulty” was also discussed and determined that neither was applicable.

**Motion by Moenck, seconded by Donaldson to classify the “ornamental wall” as a “non-fence” based on the interpretation of the definition of a “fence” in Ordinance Chapter 1268.28, as this application does not meet the requirements of a “fence”.**

Discussion ensued.

Gallasch called the question.

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

9. There is a request to use a man-made brick instead of a natural stone.
10. At this point in time the applicant has not provided sufficient information proving practical difficulty.
11. ZBA members voted 4-3 that this item, by definition, is considered a fence.
12. The applicant is requesting the material for the feature be identical to that used on the house.

13. The dimensions of the feature tapers from 28” at one end to less than 14” at the other, which follows the Ordinance.

**Motion by Couger, seconded by Kueck, that the Board members consider the Proposed Findings of Facts with respect to the request for a brick ornamental wall, not natural stone at 27201 Wellington Rd., 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, Couger, Donaldson, Gallasch, Kueck, Meyer, Moenck**

**Nays: None**

**Motion carried.**

**Motion by Couger, seconded by Kueck that each member of the ZBA, using the Approved Findings of Facts, consider the facts for 27201 Wellington Rd., and if he believes the facts warrant approval of the Appellant’s request for a brick ornamental wall, not natural stone, he should vote “Aye” and if he does not believe the facts support the variance, he should vote “Nay”.**

**Ayes: Kueck, Meyer, Moenck**

**Nays: Brakeman, Couger, Donaldson, Gallasch**

**Motion denied.**

Discussion ensued regarding framing the motion as a denial.

**Motion by Couger, seconded by Kueck that each member of the ZBA, using the approved Findings of Facts, consider the facts for 27201 Wellington Rd., and if he believes the facts warrant denial of the Appellant’s request for a brick ornamental wall, he should vote “Aye” and if he does not believe the facts deny the variance, he should vote “Nay”.**

**Ayes: Brakeman, Couger, Donaldson, Gallasch, Kueck**

**Nays: Meyer, Moenck**

**Motion approved.**

**B. Case #16-05**

Appellant: Robert & Susan Gordon

Property: 31260 Lucerne

Parcel Id: 24-05-379-001

Zoning: R-1

Description of Request: A fence constructed within a required setback.

The appellant is requesting that the Zoning Board of Appeals grant a variance regarding the location of a fence, within the setbacks, as follows:

Village Ordinances, Chapter 1268, Section 1268.28 (b)(5) A. states that the location 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 fence setback 25 feet from the side yard abutting a street (Devon) in the required 50 foot setback area. The variance request is for 25 feet.

Bill Dinnan, Building Official presented the case to the ZBA. Referring to the map, dated 5/19/16, ZBA members had questions about the layout of the property. According to fence contractor (Mike), representing the project manager who was unable to attend the meeting, the house had previously been granted a variance as it is within the 50 ft. setback. He also pointed out that the new fence would be constructed against the natural vegetation along Devon Dr. This location would allow the owners to maximize the yard space. If the fence were to be constructed at the required 50 ft. setback it would cut into the lanai. Thus, the request for a variance was appropriate. In addition, the fence was also needed for the required pool enclosure. Dinnan reminded the ZBA that he requires a fence permit be pulled at the same time a pool permit is issued.

Robert Gordon, property owner, gave an overview of the property noting the lot being irregularly shaped, Devon was a dead end street, their side lot along Devon was clearly a side lot, the house was legally non-conforming as it was built before the Ordinances were effective, and the three car garage had been issued a variance previously. He described the proposed metal fence as pewter with a matt finish. The chosen location of the fence would be most unobtrusive against the natural vegetation which extended to Devon Dr. The closest neighbor who came to the fall meeting about the garage had no objection to the location of the proposed fence. He also stated that if the fence were to be built at the 50 ft. setback line the property between it and the vegetation would be inaccessible and, therefore, unusable.

Dinnan confirmed that the proposed fence met all requirements for material, height, and qualifications for a pool enclosure.

**The Zoning Board of Appeals made the following Findings of Facts with respect to the request for a variance for a fence constructed within a required setback:**

1. The Property Address is 31260 Lucerne.
2. The Parcel ID is 24-05-379-001.
3. The Zoning is R-1.
4. The Village did not receive any letters or comments about the request.
5. The fence material conforms with all the requirements of the Fence Ordinance and pool enclosure.
6. The house is legally non-conforming structure.
7. There is an egress gate into the fenced area.
8. The requested variance is for the side yard.
9. There is heavy natural vegetation in the side yard.

**Motion by Brakeman, seconded by Meyer, that the Board members consider the Proposed Findings of Facts with respect to the request for a variance for a fence constructed within a required setback at 31260 Lucerne., 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, Couger, Donaldson, Gallasch, Kueck, Meyer, Moenck**  
**Nays: None**  
**Motion carried.**

**Motion by Moenck, seconded by Meyer that each member of the ZBA, using the approved Findings of Facts, consider the facts for 31260 Lucerne, and if he believes the facts warrant approval of the Appellant's request for a 25 ft. variance for a fence within the required setback he should vote "Aye" and if he does not believe the facts deny the variance, he should vote "Nay".**

Discussion ensued regarding the measurement of the setback request.

**Motion by Moenck, seconded by Meyer that each member of the ZBA, using the approved Findings of Facts, consider the facts for 31260 Lucerne, and if he believes the facts warrant approval of the Appellant's request for a 26.5 ft. variance for a fence within the required setback he should vote "Aye" and if he does not believe the facts deny the variance, he should vote "Nay".**

**Ayes: Brakeman, Meyer, Moenck, Couger. Kueck**

**Nays: Donaldson, Gallasch**

**Motion carried.**

**V. APPROVAL OF MINUTES: April 21, 2016**

**Motion by Moenck, seconded by Meyer to approve the minutes of April 21, 2016 ZBA meeting as presented.**

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

**Nays: None**

**Motion carried.**

**VI. ADJOURNMENT**

**Motion by Brakeman supported by Donaldson to adjourn the meeting.**

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

**Nays: None**

**Motion carried.**

There being no further business the meeting was adjourned at 8:46 P.M.

Respectfully submitted,

Gail Beke, Recording Secretary

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Eileen H. Pulker, Clerk