



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › [www.franklin.in.gov/planning](http://www.franklin.in.gov/planning)

### BZA Staff Report

**To:** Board of Zoning Appeals Members  
**From:** Alex Getchell, Associate Planner  
**Date:** April 30, 2014  
**Re:** Case ZB 2014-01 (UV) Patriot Tactical LLC

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#### REQUEST:

**Case ZB 2014-01 (UV)...Patriot Tactical, LLC.** A request for a use variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 21, to allow the operation of a retail use (medium scale), apparel/footwear-store/sporting goods shop in the Industrial: Business Development (IBD) zoning district. The property is located at 166 RJ Parkway.

#### PURPOSE OF STANDARD:

The "IBD", Industrial: Business Development zoning district is intended to provide locations for small scale manufacturing, construction, production, and assembly uses, as well as other light industrial uses. This district is specifically intended to provide appropriate setbacks and standards for small-scale businesses, entrepreneurial operations, start-up businesses, and similar operations.

#### CONSIDERATIONS:

##### Current & Proposed Use

1. Facility currently being used exclusively for industrial development of military targets and products.
2. The petitioner is requesting a use variance to allow a portion of the subject facility to be used as a Johnson County law enforcement retail business; the current use will use the remainder of the facility.
3. Article 3, Chapter 2 states "any use not listed as a permitted use or special exception use is considered non-permitted. The Planning Director may determine into which category any questionable use is placed if it is not specifically listed but is similar to another use that is a permitted or special exception use."
4. Since the proposed use is not specifically listed in the City of Franklin Land Use table, staff has determined the category this use falls into, is retail use (medium scale), apparel/footwear store, and sporting goods shop. Retail use (medium scale) is a non-permitted use in the IBD zoning district.

##### Facility & Parking

5. The property currently includes an 80 ft. x 80 ft. industrial structure with paved parking and drives.
6. Article 7, Chapter 10 states "Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance."

7. Article 7, Chapter 10 states that a minimum of 1 parking space for every 300 sq.ft. of floor area of retail space shall be provided, plus 1 parking space for every employee on the largest shift.
8. The floor area of the facility is 6,400 sq.ft. with approximately 650 sq. ft. dedicated to the retail operation; the remainder will continue to be manufacturing. A total of 4 employees will be on site during the largest shift. Therefore, a total of seven (7) parking spaces would be required per ordinance.
9. Per the attached exhibit, a total of nineteen (19) parking spaces are existing onsite.
10. The Board is responsible for stating the total number of parking spaces to be provided.

**Comprehensive Plan & Zoning Ordinance**

11. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Business Development Area. “Business development areas are intended to serve as both the permanent home of small scale businesses and incubators of new local companies. Land uses in business development areas include manufacturing, light industrial operations, contractor’s offices, and products suppliers. In many instances the types of businesses in these areas are those that have both commercial and industrial qualities. The business development areas provide these uses the ability to serve customers in a setting that allows outdoor storage and the operation of heavy equipment and machinery that often are involved.”
12. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
13. Article 11, Chapter 3 states “Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application.”

The surrounding zoning and land uses are as follows:

**Surrounding Zoning:**

North: IBD, Industrial: Business Development  
 South: IBD, Industrial: Business Development  
 East: IBD, Industrial: Business Development  
 West: IBD, Industrial: Business Development

**Surrounding Land Use:**

North: Vacant Industrial lot  
 South: Vacant Industrial lots/Redi Controls  
 East: Patriot Products Main Office/Vacant lot  
 West: Industrial small-shops

**CRITERIA FOR DECISIONS – USE VARIANCE:**

**(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all use variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

1. ***General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

**Staff Finding:**

The approval of the variance will not be injurious to the public health, safety, morals, or general welfare of the community since the neighboring uses are industrial and commercial in character, adequate parking will be provided onsite and the presence of law enforcement officers has been shown to deter criminal behavior.

2. ***Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

**Staff Finding:**

The adjacent properties are largely industrial and commercial in character; their use and value will not be affected in any way, as the subject property will continue to be primarily industrial in nature, seeing that only one-tenth of the building (approx. 650sq. ft. of the 6,400sq. ft. building) will be utilized for the proposed retail uses. Therefore, staff finds, approval of the proposed retail use (medium scale), apparel/footwear store, and sporting goods shop, will not substantially alter the use and value of the general vicinity.

3. ***Condition of Property: The need for the variance (arises or does not arise) from some condition peculiar to the property involved.***

**Staff Finding:**

Staff finds that the need for the variance does not arise from a peculiar condition of the property as the existing structure and property has historically been used for permitted industrial and commercial type uses.

4. ***Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.***

**Staff Finding:**

Staff finds that the strict application of the terms of the Ordinance will not result in an unnecessary hardship as the existing structure and property has historically been used for, and will continue to be used for industrial and commercial type uses that are consistent with the zoning district.

5. ***Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.***

**Staff Finding:**

Staff finds that the proposed use, albeit retail in character, is complimentary to the existing industrial use that will continue to occupy a vast majority of the facility. Therefore, the granting of use variance will not substantially interfere with the Comprehensive Plan, as it states the area should continue to be used for industrial and commercial uses.

**Please Note:** The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

### **STAFF RECOMMENDATION – USE VARIANCE**

Based on the written findings above, staff recommends **denial** of the use variance.

If the Board finds sufficient evidence to approve the request, staff would recommend the following conditions be placed on the approval of the use variance:

1. A minimum of seven (7) parking spaces be maintained onsite, and applicant shall provide onsite parking at a ratio of one (1) parking space per additional employee on the largest shift, and/or one (1) parking space per each additional 300 sq.ft. of retail use floor area.
2. Any expansion of the retail use (medium scale) apparel/footwear-store/sporting goods shop, beyond the area approved as part of this request, shall require favorable action (including new findings of fact and conditions of approval) by the Board.
3. To restrict potential nuisance and non-complimentary uses, and to make future operations compatible with the surrounding property, this use variance approval shall be limited to retail use (medium scale) apparel/footwear store, and sporting goods shop.
4. All applicable federal, state, and local permits/approvals are required; including, but not limited to, compliance with all building and fire codes.