

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

August 6, 2014

Members Present:

Jim Martin	Secretary
Brian Alsip	Member
Rev. Richard Martin	Member

Members Absent:

Tim Holmes	President
Phil Barrow	Vice-President

Others Present:

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Jaime Shilts	Recording Secretary

Call to Order:

Jim Martin called the meeting to order at 7:14 p.m.

Swearing In:

Lynn Gray swore in the audience en masse. She stated that there must be approval or denial of all 3 members for cases to pass or fail. If the vote is 2-1, the case is automatically continued to the next meeting.

Approval of Minutes:

Lynn Gray stated that on page 3, it should read that Mr. Martin recommended denial "for the reasons set forth in the Staff report." Rev. Martin made a motion to approve the July 2, 2014 minutes with the corrections noted. Brian Alsip seconded the motion. The members voted to approve the minutes as presented.

Old Business:

None.

New Business:

ZB 2014-07 (V) 50 Centerbrook Drive:

The petition is for a developmental standards variance to allow a covered porch addition to be located closer to the front lot line than permitted in the RSN zoning district. The front porch addition would extend 10 feet closer to the front lot line than the block average setback of 35 feet. Alex Getchell stated

that the property is in the buffer zone and all permits will be issued through Johnson County. Setbacks are enforced by the City of Franklin.

Ryan Gross, representing David L. Lowe, stated that the subdivision was developed back in the 1940's. Mr. Lowe has lived there about 30 years and has decided he wants to put a front porch on his home.

Mr. Gross stated the general welfare will not be injurious to the public. He stated the subdivision was built in the 1940's. He stated there will not be another lane added to the subdivision in reference to the width of it.

Mr. Gross stated the porch will not have any affect on the adjacent property. He stated it will enhance the property and the neighborhood.

Mr. Getchell stated there are not any platted setbacks in the subdivision. The house is 35' from the right-of-way line and the addition of the porch would make it at 25' from the right-of way line. Staff figured out the setback by looking at the average of the setback of the homes in the neighborhood, which is 35'. Mr. Gross stated there is a 4x4' concrete pad already there that the porch will be built on. Mr. Getchell stated the 4 feet concrete pad is allowed, but when you start building up the setbacks are in effect. He stated that all the houses in the subdivision are on septic systems and have wells. The septic system at this property is in the back yard and the well in the front yard. Mr. Gross stated the current concrete pad will be taken out and a 10'x16' covered porch will be added.

Staff recommends denial due to the adjacent property being adversely affected as it would disrupt the uniform setbacks that are already there. He stated that he doesn't believe the request establishes a practical difficulty. Mr. Getchell stated that if the Board finds the case in compliance, Staff recommends that the following conditions be adhered to:

- a. Obtain all permits/approvals from City of Franklin and Johnson County prior to construction.
- b. A minimum of ten (10) feet of separation must be maintained between the porch and well.

Action taken on ZB 2014-07 (V) 50 Centerbrook Drive:

Brian Alsip made a motion to approve the request with the conditions recommended by Staff:

- a. Obtain all permits/approvals from City of Franklin and Johnson County prior to construction.
- b. A minimum of ten (10) feet of separation must be maintained between the porch and well.

Rev. Martin seconded the motion. The motion carried. The request was approved.

ZB 2014-08 (V) 506 Galahad Drive:

The petition is for to allow a developmental standards variance to allow a fence 4 feet in height in the front yard in the RSN zoning district. The variance is needed as fences, walls, and hedges are permitted to be 3 feet or less in height in front yards. Due to the configuration of the property on a corner and the back of the property is along a cul-de-sac, between 2/3rds to 3/4 of the yard are considered a front yard by the zoning ordinance.

Ms. Gray stated that the petitioner submitted the appropriate variance to the Daily Journal but the newspaper published the words "a dwelling" instead of "a fence". She stated that the date and place were accurately listed and adjoining property owners were notified. She stated that the petitioner followed all of the rules required and there is substantial compliance and can be reviewed by the Board.

Lisa Crump, owner, Lisa Crump, owner, stated the general welfare will not be injurious to the public. She stated that the purpose of the fence is to keep three dogs inside the property and away from people and the road.

Ms. Crump stated the adjacent properties will not be adversely affected by the 4 foot height fence instead of the 3 foot height fence.

Ms. Crump stated there is a practical difficulty in that the 4 foot fence is a practical solution to keep the dogs in the yard as one of the dogs is a Great Dane and because of the unique configuration of the yard.

Jack Borsos, 526 Galahad Drive, stated his concern is that the four foot fence may be allowed in the front of Galahad drive. He's concerned about what is defined as front yard. Ms. Gray stated that technically, it is all front yard. Mr. Borsos stated his concern of the location of the property line. Ms. Gray stated the variance does not change the property line. Mr. Getchell stated the fence will be located as proposed and will be along the property lines. Mr. Alsip questioned how near the fence line goes to the driveway of the rear neighbor. Ms. Crump stated they are not going to their driveway. Mr. Getchell stated the lines on the picture are only representative of what the County GIS system has. Mr. Alsip questioned if she would be okay with the condition that the fence be 10 feet off the property line. Ms. Crump stated she was.

Kathy Hill, owner at 506 Galahad, stated they are more than happy to work out the fence location with their neighbors.

Staff recommends approval.

Action taken on ZB 2014-08 (V) 506 Galahad Drive:

Brian Alsip made a motion to approve the variance with the following the condition:

1. The fence be placed off the driveway a minimum of 8 feet.

Rev. Martin seconded the motion. The motion carried.

ZB 2014-09 (V) Burger King:

The petition is for a development standards variance to allow an additional 36 sq ft Burger King logo sign and also a 27.78 sq ft Home of the Whopper letter set. The property is located in the MXC and Gateway Overlay districts. A variance is needed as the existing signage is already considered legal nonconforming in regard to the total signage area. Under the current ordinance only 88 sq ft of signage is permitted at the property; however the existing equals 160 sq ft. The applicant is proposing an additional 63.78 sq ft to that total for a total of 223.78 sq ft.

JR Freiburger, 233 E 175th St, Westfield, IN, stated they did the remodel without an additional sign commitment due to the corporate deadline on completion.

Mr. Freiburger stated that there is minimal recognition to the building in general on U.S. 31. He stated the only sign they have faces west. He stated the goal is to have customers park in the south parking lot and have the Home of the Whopper canopy over the double door entrance.

Mr. Freiburger stated that the safety and welfare is important. The sign is way for people to get into the building. It is recognizable to the public.

Mr. Freiburger stated the surrounding properties will be enhanced by the signage. He stated there is no adverse lighting or neon signage.

Mr. Freiburger stated there is a practical difficulty in that there is a lack of identity and loss of brand for the franchisee. He stated without the brand recognition there is a practical difficulty for the retailer.

Mr. Martin questioned if it is standard signage. Mr. Freiburger stated yes, there are 5 signs. He stated the Home of the Whopper sign is standard for Burger King.

Mr. Getchell stated that they had a completely different facade package originally that would not have gone through without other types of variances. He stated they immediately submitted a new package and have gone through significant lengths to meet what Franklin's ordinance requires. He stated that the ordinance regarding the facade does not allow more than 10% to be a primary color, black or metallic. He stated when they originally came in with the facade as black and they changed it to stone based on comments by staff. Mr. Getchell stated they have already applied for and received 2 sign permits. They replaced a square sign cabinet with a round logo and on the building there used to be a raceway sign which has been replaced with a button logo. They are requesting another button logo and The Home of the Whopper sign.

Mr. Getchell stated that Staff recommends approval with the following condition:

1. Sign permits shall be obtained prior to construction.

Action taken on ZB 2014-09 (V) Burger King:

Rev. Martin made a motion to approve the variance with the conditions recommended by Staff:

1. Sign permits shall be obtained prior to construction.

Brian Alsip seconded the motion. The motion carried.

Other:

None

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 3rd day of September, 2014.

Tim Holmes, Chairman

Jim Martin, Secretary