



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, Associate Planner
Date: August 28, 2014
Re: Case ZB 2014-10 (V) | Everett L. Milbourn Jr. | 699 S. Morton St.

REQUEST:

Case ZB 2014-10 (V)...699 S. Morton St. A request for a developmental standards variance of the City of Franklin Zoning Ordinance from Article 5, Chapter 4 to allow the outdoor display/storage of merchandise (vehicles) without the required screening in the Mixed-Use: Community Center (MXC) and Gateway Overlay (GW-OL) zoning districts. The property is located at 699 S. Morton St.

PURPOSE OF STANDARD:

The "MXC", Mixed-Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized business and institutional facilities that serve the entire Franklin-area community. This district should be used alone, and in combination with other zoning district to create areas for community shopping, entertainment, services, and public gatherings.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City's entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area's traffic management issues.

CONSIDERATIONS:

Proposed Use

1. The petitioner is requesting a developmental standards variance relating to the proposed auto-oriented use (large scale), automobile sales, from 699 S. Morton St. (near the intersection of Nineveh St. & US 31).
2. The petitioner recently purchased the subject property with the intent to operate a used car sales business with between eight and ten cars for sale at any given time. See attached site plan.

Outdoor Merchandise

3. The property is located within the Gateway Overlay District. The Gateway Overlay district has strict standards (Article 5, Chapter 4) regarding outdoor storage/display of merchandise, including vehicles.
4. Article 5, Chapter 4 of the Zoning Ordinance states: "Merchandise may be stored or displayed for sale to customers only in areas immediately adjacent to the primary structure on each property. The storage of outdoor merchandise for sale elsewhere on the property shall be prohibited. This area shall be (1) enclosed by a minimum 8 foot tall wall, or (2) composed of a 3 foot tall base wall topped by wrought iron or tubular steel fencing. No merchandise other than trees shall be visible above the wall or fencing."

5. The petitioner is requesting a developmental standards variance to allow the sale of autos without the required screening in the Gateway Overlay District.

Comprehensive Plan & Zoning Ordinance

6. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers are intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks, and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."
7. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
8. 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.

Surrounding Zoning:

North: MXC, Mixed-Use, Community Center
South: MXC and IN, Institutional
East: RTN, Residential, Traditional Neighborhood
West: RS-1, Residential, Suburban One

Surrounding Land Use:

North: Used Auto Sales
South: Vacant/New Life Baptist Church
East: Vacant Single-family residential
West: Single-family residential/Agricultural

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:

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

In taking action on all special exception and 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 special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA – DEVELOPMENTAL STANDARDS VARIANCE

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 as the vehicles would be parked within delineated parking space and outside of the visibility triangles on Morton Street and Nineveh St.

- 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 use and value of the adjacent properties will not be affected in a substantially adverse manner, as auto dealerships, with vehicles stored/displayed without the required screening are common along Morton Street. In fact, a used car dealership, without screening, is located directly north of the subject property, and operates in a manner similar to what the petitioner is requesting approval.

- 3. Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.*

Staff Finding:

The strict application of the ordinance will result in a practical difficulty, as it is not practical to enclose an automobile sales parking lot with a wall or combination wall/fence eight (8) feet in height. Furthermore, there are other properties in the immediate vicinity, also located within the MXC and Gateway Overlay Districts, which are permitted outdoor storage/display of merchandise; either by legal non-conforming status (grandfathered) or by variance from the BZA.

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

STAFF RECOMMENDATION – DEVELOPMENTAL STANDARDS VARIANCE

Based on the written findings above, staff recommends **approval** of the petition with the following conditions.

1. Each employee, customer, and merchandise parking space shall be marked with appropriate pavement markings, as shown on the site plan, with parking spaces not less than nine (9) feet wide by eighteen (18) feet in length.