

## MINUTES

### City of Franklin, Indiana BOARD OF ZONING APPEALS

February 4, 2015

#### **Members Present:**

Phil Barrow	Vice-President
Jim Martin	Secretary
Brian Alsip	Member
Rev. Richard Martin	Member

#### **Members Absent:**

Tim Holmes	President
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#### **Others Present:**

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

#### **Call to Order:**

Phil Barrow called the meeting to order at 7:00 p.m.

#### **Approval of Minutes:**

Jim Martin made a motion to approve the January 7, 2015 minutes as submitted. Rev. Martin seconded the motion. The members voted to approve the minutes.

#### **Swearing In:**

Lynn Gray swore in the audience en masse. Ms. Gray explained that three of the four members votes will be required for action to be taken, since one member of the board is absent. She stated that if there is a 2-2 vote, it will automatically be continued to the next meeting. Petitioners have up to 20 minutes to make their presentation. Remonstrators have 20 minutes, and petitioners have 10 minutes to speak again.

#### **Old Business:**

None.

#### **New Business:**

##### **ZB 2015-01 (UV & V) Lambda Chi Alpha-Kappa Gamma Zeta:**

Ms. Gray stated that Mr. Barrow would be recusing himself from the first petition and is appointing Ms. Gray to run the meeting and is removing himself from the vote as he lives within the notification area.

Ms. Gray stated the Board has received several letters that will be entered as part of the file and the Board members can consider them as they make their vote.

The petition is for a use variance and a developmental standards variance. The use variance is to allow the operation of a fraternity house in the RTN zoning district. The developmental standards variance is to allow required parking to be located offsite and no spaces specifically designated for those living in the house. The use variance is needed as a fraternity house is listed as a non-permitted use in the RTN district and the petitioners are unable to provide designated parking for residents of the proposed fraternity house.

Ms. Gray requested that Mr. Getchell identify the letters received were all in opposition: He stated they had received letters from Zeiher, Parker, Williams, Fredbeck, and Wadsworth. He stated there is an additional letter with the Wadsworth letter from Greg Leugers.

Martin Chastain, Lambda Chi, stated they are not trying to interrupt the peace in the neighborhood. He stated they respect their undergraduate brothers and do not take it lightly when doing something like this. The facility that they are in at Franklin College is not in the best of shape and the house at 949 W Jefferson Street fit their needs and location. He stated the undergraduates will be held to certain standards and will respect the neighbors.

Mr. Chastain stated the general welfare will not be injurious to the public. The undergraduate brothers will be under strict rules from the fraternity, Franklin College, and the Lambda Chi housing organization. He stated the difference between the fraternity and houses occupied by college students is that anytime there is a party at the fraternity, Lambda Chi and the college will have to be notified. There are certain restrictions as to what kind of gatherings can be held. He stated that kegs are not allowed in fraternity houses. They would be held accountable for any actions that are done against regulations. The house would have 12-14 members, most likely of highest GPA or the officers. No freshman would be allowed to live in the residence.

Mr. Chastain stated the adjacent property will not be adversely affected. He stated the house to the west is close but there is a lot to the east owned by Franklin College that the brothers can use. Mr. Chastain stated they can build a fence as needed and will keep the house maintained. There will be a fund set aside to keep the house in order.

Mr. Chastain stated there are only two parking spots which would be given to the brothers with the highest GPA or the highest standing brothers. This would limit them parking on the street. He stated they are allowed to park on campus. Students are not guaranteed a parking spot within 1000 feet of their residence anyway so it wouldn't be an issue.

Mr. Chastain stated there are five bedrooms, two of which are very large bedrooms upstairs that 5-6 guys could fit into comfortably. They plan to add an additional bathroom upstairs bringing the total to 3 bathrooms for 12-14 guys.

Mr. Chastain stated they are allowed to hold meetings on campus so not every event is taking place at the house.

Mr. Chastain stated there is an unnecessary hardship as the rules will keep the house kept up. There will be a fund to keep the house in order. There will be responsible young men that live in the house.

Mr. Chastain stated the case does not interfere with the comprehensive plan. He stated as the college continues to grow there will probably be more houses bought up for their use.

Mr. Chastain stated the general welfare will not be affected in an adverse manner. He stated the housing corporation will have rules that will result in less traffic and more people parking on campus.

Mr. Chastain stated the adjacent parking will not cause a competition in parking with the neighbors.

Mr. Chastain stated there is a practical difficulty and the college does encourage the students to have parking passes.

Brooks Bemis, 2013 graduate, stated he lived in the fraternity house on Monroe Street. He stated they kept their GPAs up and it is not like you see on t.v. He stated the house was very quiet on weekdays. He stated that on weekends the music can get loud but they will not be having large parties. Mr. Stevens stated they are a Christian fraternity and have been on campus since 1942. They feel that if they don't get a house and have to move back into the dorms they are afraid it will be detrimental to their fraternity. Ms. Gray stated there is a letter from Dean Hall that should be entered into the record as a letter of support.

Brent Norton stated his parents bought 35 S Houghham and he and his sister inherited the house. The property backs up to the back of the proposed fraternity house. He stated they have to keep an eye on their renters and the alley way, which was closed off by the college. They don't want their renters to move. He stated their neighbors are constantly telling them they have to call the police. They are against having a fraternity there.

Melanie Lau, 35 S Houghham Street, stated she rents the house from Mr. Norton. She has lived at the house for 3 years. Her son goes to preschool and her concerns are about the noise levels during the week and she wants to make sure her son can sleep. She does not want to have to move. She shares a driveway and a backyard with the house.

Scott & Julie Parker, 897 E Jefferson Street, stated they live two houses down from the proposed fraternity house. Ms. Parker stated that they have a few students that they live next to that they already have issues with. She stated the fraternity would be the first thing people see when they come into town. Mr. Parker submitted the photos as part of the record of the parties at the house to the west where college students live. Ms. Parker stated there is a lot of noise, alcohol, and bad language. She stated they also have to deal with the after party. The students put up a tent last time because the Parkers had complained about them urinating in the yard. She stated they have had students passed out across the street. There is a fire pit next to their fence that they have to extinguish because the students leave. Ms. Parker stated they've been woken up three times this week alone by noise. They have had parking issues for quite a while. They park on Jefferson Street and also in the fire lane and park the wrong way. They are against the fraternity.

Ken Austin, 1481 E Jefferson Street, stated that with the \$20 million gateway that has been proposed there should be other options for the fraternity. He stated he agrees with the staff report and agrees there are other options.

Amy Zeiher, 37 S Houghham, stated that she lives next to the alley that the house would use to access their property. She feels that their property values would be ruined. She stated they canvassed the neighborhood about the issue and no one was in favor. She stated the property that has college students living in it now has already had a lot of issues.

Jeff Williams, 27 S Houghham, stated he is not in favor of the fraternity going as it doesn't present a good vision to visitors to the city. He stated he doesn't believe the size of the frat is conducive to the size of the house. He doesn't believe the house would be kept up to standards and home values would go down in the neighborhood. He stated they had two children attend Franklin College but does not feel that would be a good idea for Franklin.

Ms. Gray stated that the time was up for comments. The board stated they would like to hear more comments.

Michele Schilten, 898 E Jefferson St, stated they did have a college student pass out on their front porch and it is something that her children should not have to see. She stated that it is not good for their neighborhood. It is zoned single family for a reason. She is excited in the development of Franklin and doesn't think the fraternity would be a good fit.

Steve Barnett, City Council, stated that Franklin College is big for the city and it's needed for the city to survive. He stated they want the students in Franklin but they need to think about the new gateway and how it will be affected. He stated that the parking is an issue and the whole thing needs to be thought through.

Kandi Setser, stated she is a great grandchild of the founder of Franklin College. She doesn't think this is what the founder had intended.

Emily Wadsworth, 901 E Jefferson Street, stated they restored their home and they love the city. They live next door to the proposed fraternity house and their house is on the market right now. She stated that their realtor told them that living next to a railroad or fraternity could lower their house value by 15%. She stated that they are opposed to having the fraternity there.

Mr. Chastain stated he respects everything that the neighbors are saying. He stated that he graduated in 2013. He stated that none of the situations mentioned occurred with the Lambda Chi house. He stated their current house is going to be bulldozed and now has 30 guys living in it. He stated that he understands the concern about property values but there are a lot of other multi-family homes in the area and he doesn't believe any of those have decreased the property values. He stated they will be able to afford to upkeep the house.

Dr. John Shaffer, 1175 Park Avenue, stated he is a professor at Franklin College and is a faculty advisor for the fraternity. He stated he has purchased and restored 3 homes in Franklin. He stated he supports his brothers. He stated he is surprised by how people are conveying the students and that the letters received were very accusational. He stated that he is asking the Board to consider the request.

Rev. Martin questioned what happened to the TKE's that were in the same house as Lambda Chi. Joanna Myers, Senior Planner, stated the TKE's are likely going to pursue a petition for a PUD and will be proceeding with the Plan Commission. The house they are living in is being torn down. Mr. Alsip questioned if there was a letter of support from the college. Ms. Gray stated that there was only one from Dean Hall. Mr. Alsip questioned if the college would assign specific parking to the Lambda Chi members. Dean Hall stated that they probably would not do that but there is plenty of parking on campus on the south side. Mr. Hall stated one of the chapters chose not to live in the building and thus, the building is to be torn down. Mr. Alsip questioned which fraternity declined to stay. Mr. Hall stated that the Lambda Chi chapter did agree to remain on campus.

Mr. Alsip questioned if the fraternity is a dry house. Mr. Chastain stated it is not. Mr. Alsip stated that if the number of people living there could be lowered as a condition. Dr. Shaffer stated they could consider it. Mr. Alsip questioned if it could be a dry house. Mr. Martin stated that currently under their president the house is alcohol free but he doesn't know how long that will remain in effect. Mr. Alsip questioned if the fraternity had done research on whether the home values would be affected. Mr. Chastain stated he had not and did not know about home values. Mr. Alsip stated they received a letter from a realtor that home prices would drop by 15%. Dr. Shaffer stated he would like to know what that number is based on. Mr. Alsip questioned if there are alternative houses they have looked at. Nick Burks, graduate, stated they do not have any other options right now.

Mr. Martin questions if the dorms are full. Mr. Hall stated they are positioned to house both fraternities this fall if they need to, though not as fraternities.

Staff recommends denial of both variances, as outlined in the Staff Report.

**Action taken on ZB 2015-01 (UV & V) Lambda Chi Alpha-Kappa Gamma Zeta:**

Brian Alsip made a motion to deny the use variance based on the following criteria:

1. General Welfare: The approval will be injurious to the public health, safety, morals, and general welfare of the community.
2. Adjacent Property: The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner.

Rev. Martin seconded the motion. Brian Alsip-yes, Rev. Martin-yes, Jim Martin-yes. The motion for the use variance was denied.

Brian Alsip made a motion to deny the parking variance based on the following criteria:

1. General Welfare: The approval will be injurious to the public health, safety, morals, and general welfare of the community.
2. Adjacent Property: The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner.

Jim Martin seconded the motion. Brian Alsip-yes, Rev. Martin-yes, Jim Martin-yes. The motion for the parking variance was denied.

**ZB 2015-02 (SE) Indiana MENTOR:**

The petition is for a special exception at 1400 Commerce Parkway to allow an adult day care center in an IG zoning district. Mr. Getchell stated that certified letters were mailed instead of certificate of mailing and a waiver is needed to accept the certified letters.

Jim Martin made a motion to accept service on the mailings. Brian Alsip seconded the motion. The motion carried.

Rick Beaver, partner in CTC04, LLC, stated they were approached a year and half ago by Hillcroft wanting a new facility. He stated that Hillcroft works with mentally handicapped adults and provide tasks and training for them with day to day activities. He stated that Hillcroft lost their biggest client and wanted to move. He stated they are asking for a special exception for them to do their training services in the same building but found out they would need a special exception. Mr. Beaver stated they take up about 4 parking places on a busy day and when they have employee meetings they would need 7. They currently have 13 spaces that are painted off but they could accommodate 19.

Mr. Beaver agrees with the parking spaces as recommended by staff and also will meet the standards and the conditions mentioned by Staff. Mr. Barrow questioned what they are going to do with the rest of the building if they get another tenant. He stated if they need additional parking there is room for more it just needs asphalt. He stated most of HillCroft's clients are currently bused in.

**Action taken on ZB 2015-02 (SE) Indiana MENTOR:**

Rev. Martin made a motion to approve the petition with the following conditions:

- a. Six (6) additional parking spaces, 9' x 18' in size, shall be painted, with appropriate pavement markings, as indicated in red on Figure 1 of the staff report, by May 1, 2015.
- b. All unresolved comments listed on the Temporary Certificate of Occupancy shall be completed by May 1, 2015.

Jim Martin seconded the motion. The motion carried. The petition passed.

**ZB 2015-03 (UV & V) Julie Stewart-383 E. Madison Street:**

Mr. Getchell stated the petition is for a modification to commitments E, D, B & G from ZB 2013-12 which was for a use and developmental standards variance for a variety store, parking and landscape variances. He stated the request tonight is for the following modifications: to allow 9 parking spaces, 3 onsite, 6 offsite and shared; a 6 sq ft projecting sign off the front porch; a wall sign 6 sq ft in size on the rear wall of the building; and to be able to utilize the second floor for retail. Previously no signage was allowed at the property with the previous approval and the second floor was to be left vacant. They were commitments made by the petitioner.

Mr. Getchell stated the petitioner will now meet the requirements of the ordinance for parking based on the first and second floor square footage. They will need 9 spaces. He stated they have filed with the State for change of use, but have not yet received approval.

Julie Stewart, owner of the building, stated that they can now provide enough parking for the proposed use. They do have enough parking to meet the requirements for the second floor occupancy. She stated they are also requesting a sign on the front porch.

Ms. Stewart stated there is a practical difficulty but they are providing parking as required and are also providing signage to direct their customers.

Ms. Stewart stated there is a hardship as they can provide the parking and necessary signs.

Ms. Stewart stated that with the comprehensive plan they have cleaned up the property and maintain it. They feel customers will walk to the store and not drive. The shop is only open during the day.

Ms. Stewart stated with the parking, there are 6 sites are offsite and would be shared with Franklin Heritage Architectural Salvage. The 3 onsite spaces are already approved and in a gravel lot behind the store.

Ms. Stewart stated that in regards to the adjacent property they can now provide all necessary parking. Customers will not have to compete for street parking.

Ms. Gray requested that Ms. Stewart address all of the variances to make sure she can comply with all the conditions. Ms. Stewart stated they can comply with the following staff recommended conditions for the Use Variance:

- B: Nine (9) total parking spaces will be provided; three (3) gravel spaces located behind the business, and six (6) parking spaces, consistent with the requirements outlined in the Zoning Ordinance, located on the property owned by Franklin Heritage, Inc., west of Depot Street.
- D: No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.
- E: Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.
- G: -Remove from Commitments-

Ms. Myers stated that the statement regarding requirements outlined in the Zoning Ordinance is specific to providing a maintenance agreement and other agreements as outlined in that ordinance. Ms. Stewart stated she does understand that. Ms. Gray stated the exterior signage is not to be illuminated. Ms. Stewart stated that she agreed it would not be illuminated. Ms. Gray stated that she can use the second floor now.

She questioned if the sign that was listed as 6 ft in sign face area and 4 ft in height has to be the 4 feet in height. Ms. Gray and Mr. Getchell stated it does not have to meet the height requirement. Staff has recommended removal of the commitment of using the second floor.

Ms. Stewart stated she can comply with the following staff recommended conditions for the Developmental Standards Variance:

- B: Nine (9) total parking spaces will be provided; three (3) gravel spaces located behind the business, and six (6) parking spaces, consistent with the requirements outlined in the Zoning Ordinance, located on the property owned by Franklin Heritage, Inc., west of Depot Street.
- D: No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.
- E: Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.
- G: -Remove from Commitments-

Mr. Barrow questioned if the agreement between Franklin Heritage and Ms. Stewart dissolves, she has no variance. Ms. Stewart agrees and does not have a problem with it.

**Action taken on ZB 2015-03 (UV & V) Julie Stewart-383 E. Madison Street:**

Jim Martin made a motion to approve the case with Staff recommendations as outlined by Lynn Gray including the non-illumination of the sign:

- B: Nine (9) total parking spaces will be provided; three (3) gravel spaces located behind the business, and six (6) parking spaces, consistent with the requirements outlined in the Zoning Ordinance, located on the property owned by Franklin Heritage, Inc., west of Depot Street.
- D: No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.
- E: Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.
- G: -Remove from Commitments-

Brian Alsip seconded the motion. The motion carried. The variance passed.

Jim Martin made a motion to approve the variance case based upon Staff recommendations as outlined by Lynn Gray including the non-illumination of the sign:

- B: Nine (9) total parking spaces will be provided; three (3) gravel spaces located behind the business, and six (6) parking spaces, consistent with the requirements outlined in the Zoning Ordinance, located on the property owned by Franklin Heritage, Inc., west of Depot Street.
- D: No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.

E: Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size, and the signs will not be illuminated.

G: -Remove from Commitments-

Brian Alsip seconded the motion. The motion carried. The variance passed.

**Other:**

None

**Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 4<sup>th</sup> day of March, 2015.

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Tim Holmes, Chairman

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Jim Martin, Secretary