



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: June 23, 2015
Re: Case ZB 2015-09 (V) | Connie Leonard | 975 E. 125 S.

REQUEST:

Case ZB 2015-09 (V)...975 E. 125 S. A request for a developmental standards variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 4, to allow a property to be less than the minimum lot area of two acres, request is for only 1.6 acres, in the A: Agricultural zoning district. The property is located within the City's Extraterritorial Area, "buffer zone," at 975 E. 125 S., Franklin, IN.

PURPOSE OF STANDARD:

The "A", Agricultural zoning district is intended to provide locations for agricultural operations and related land uses. This district is further intended to reduce conflicts between residential and agricultural areas with the viability of agricultural operations, and limit development in areas with minimal infrastructure. This district should be used to protect agricultural operations from land uses that are incompatible with the available infrastructure.

CONSIDERATIONS:

Current Property

1. The petitioner currently owns property 20.74 acres in size, which includes a single-family residence, detached garage and an agricultural pole building.
2. Approximately 18.8 acres is crop field, with the remaining ~1.94 acres untilled and associated with the residence, detached garage, and pole building.
3. The residence utilizes an on-site sewage system (septic) for their waste disposal and well for water.
4. The subject property is located within the "Buffer Zone" and is nearly 1 ¼ mile from the closest existing sanitary sewer connection.

Proposed Property

5. The petitioner is proposing to split off and sell the residence and detached garage, with 1.6 acres, from the 20.74 acre property (See **Figures 1 & 2 below**).
6. According to the City of Franklin Zoning Ordinance, Article 3, Chapter 4, the minimum lot area is 2 acres (87,120 sq. ft.) for properties in the "A", Agricultural zoning district.
7. Additionally worth noting, the "RR", Rural Residential zoning district also requires a minimum lot area of 2 acres when a septic system is used, but allows only 1 acre if connected to public sanitary sewer.

Discussions with Staff

8. During conversations with the petitioner prior to application, staff offered a few subdivision/parcel-split options for the petitioner to consider, as ways they could meet the requirements of the ordinance, without the need for a variance from the development standards (See **Figure 3** below).
9. The red outlined option staff provided in **Figure 3** would allow the petitioner to maintain nearly all of the existing crop field, with only a small sliver of crop field, possibly only 10' wide, being split off with the residence. The house, detached garage, and pole building would all be included in the two acre property.
10. The yellow outlined option staff provided in **Figure 3** would allow the petitioner to maintain approximately 18.5 acres of the existing 18.8 acre crop field, and keep the agricultural pole building and access to the crop field over the south gravel drive.
11. Petitioner stated they wanted to maintain access to the crop field via the south gravel drive. Staff believes access to the crop field could be achieved across any of the 1,000 feet of road frontage along 125 S.

“Buffer Zone” and Septic Fields

12. Since the property is located within the “Buffer Zone,” Johnson County Planning & Zoning will approve the subdivision of the property, while the City of Franklin establishes and enforces the development standards (e.g. minimum lot area, setbacks, use, etc.)
13. While the Johnson County development standards do not apply to properties in the “Buffer Zone,” it is worth noting that Johnson County’s Zoning Ordinance also requires a minimum of 2 acres for properties located in their A-1, Agricultural District; a similar district to the “A”, Agricultural district for the City of Franklin.
14. One of the reasons for the two acre minimum lot area, is to ensure the minimum acreage needed to accommodate a septic drain field, a tested and approved replacement septic system, and adequate separation between septic wastes and well water.
15. The petitioner has shown (**Figure 2**) an area north of the residence as a possible location for a replacement septic system and drain field; however, staff believes soil testing has not yet been completed to determine if the soils are even acceptable for a septic field, or if adequate separation can be provided from all structures and wells.

Comprehensive Plan & Zoning Ordinance

16. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Agricultural. “Agriculture areas are generally located outside the current city limits in Franklin’s extended zoning jurisdiction. Existing agriculture areas within the city limits are prime locations for new development, consistent with the future land use plan map. Agricultural areas are intended to include traditional farming uses, in addition to agricultural products storage and distribution facilities (such as commercial grain elevators), stables, natural preserves, agricultural research facilities, and other animal husbandry and food production related activities.”
17. 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.

18. 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: A, Agricultural
South: A, Agricultural
East: A, Agricultural
West: A, Agricultural

Surrounding Land Use:

North: Single-family residential
South: Agriculture/Crop field
East: Single-family residential
West: Agriculture/Crop field

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 could be injurious to the public health, safety, morals or general welfare of the community if adequate on-site septic treatment/disposal cannot be provided in the future. Staff does not believe it is prudent to allow the proposed 1.6 acre lot now, and potentially burden future property owners with a situation they cannot easily resolve. In matters such as this, where sewage waste disposal is concerned, a worst case scenario could mean the entire property is condemned. A lot size, which meets the standards of the zoning ordinance, of at least two (2) acres should be maintained.

- 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 the proposal does not change the use or any physical component of the property.

- 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 terms of the ordinance does not result in a practical difficulty. The situation appears to be self-imposed, as the petitioner has nearly 21 acres of property and is choosing to only split off 1.6 acres. Staff believes the request for 1.6 acres, instead of the required 2 acres, is due to preference, and not any practical difficulty in meeting the requirements of the ordinance. As staff demonstrated in Figure 3, the petitioner could split off a two acre lot for the residence, with minimal loss of crop field (as little as 1.5% of crop field) and keep the south gravel drive and pole building with the field.

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 **denial**.

Figure 1



Figure 2



Figure 3

