



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT › DEPARTMENT OF ENGINEERING
70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › www.franklin-in.gov/planning

BZA Staff Report

To: Board of Zoning Appeals Members

From: Kevin Tolloty, Associate Planner

Date: July 27, 2011

Re: Case ZB 2011-12 (UV/V)

REQUEST:

Case ZB 2011-12 (UV/V)...Hurricane Road Industrial Development Company. A request for a use variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 21; to allow the operation of automobile retail sales, and development standards variances from Article 10, Chapter 4; to allow for the expansion of a legal non-conforming use on the property in the (IBD) zoning district. The property is located at 1085 Eastview Drive which is located within the extraterritorial area (buffer zone).

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:

1. The petitioner is requesting a use variance to allow the subject property to be used for automotive retail sales and a variance from developmental standards to expand an existing non-conforming use.
2. The subject property lies within the extraterritorial jurisdiction (buffer zone).
3. The subject property lies within ¼ mile of Needham Elementary School and the Historic Greenway Trail.
4. Property History
 - a. The property is currently a legal non-conforming use on a legal nonconforming site which includes:
 - i. Non-conforming gravel parking
 - ii. Lack of landscaping
 - iii. Non-conforming signage
 - iv. Non-conforming front setback (building is 40', requirement is 50')
 - b. The portion of the property requiring the variances has historically been used as an auto repair shop; with a dance studio located at the east side of the property.

- c. There has been ongoing correspondence between the Franklin Planning Department and the property owner and owner's legal counsel concerning some possible zoning violations and also a letter from the property owner regarding the non-conforming status of the property (see attached).
5. Article 10, Chapter 4 states "No legal nonconforming use of land shall be enlarged, increased, extended to occupy a greater area of land, or moved in whole or in part to any other portion of a lot than was occupied at the effective date of this Ordinance."
6. Large scale auto oriented uses, which includes automobile sales, are a permitted use in the Mixed Use: Community Center (MXC) and Mixed Use: Regional Center (MXR) zoning districts.
7. Medium scale auto oriented uses, which includes auto repair, are permitted by right in the Mixed Use: Community Center (MXC) and permitted by Special Exception in the Mixed Use: Regional Center (MXR) and the Industrial: Business Development (IBD) zoning districts.
8. Article 7, Chapter 10 of the Zoning Ordinance 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. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter."
9. A minimum of one space per employee on the largest shift plus one space for every 500 square feet in an automobile sales showroom plus one space for every vehicle on display shall be provided for automobile sales.
10. A minimum of one space per employee on the largest shift in addition to one space for every 200 square feet shall be provided for an automobile repair facility.
11. At a minimum, the total number of parking spaces provided must meet the combined total for automobile sales and automobile repair.
12. Article 7, Chapter 10 (Part 1) (A) of the Zoning Ordinance states "No off-street parking spaces may be fully or partially located in a public right-of-way, septic field, required landscape area or buffer yard."
13. Article 7, Chapter 10 (Part 1) (E) (2) of the Zoning Ordinance states "Outdoor storage of vehicles associated with auto repair...shall be stored within the rear or side yard. All storage areas for such vehicles shall be completely enclosed with a 6 foot tall, 100% opaque wood, stone, or masonry fence. Gates allowing access to the storage areas are permitted, shall be closed when not in use, and shall consist of 6 foot tall, 100% opaque wooden doors.
14. Article 7, Chapter 10 (Part 3) (A) of the Zoning Ordinance states "all parking areas, including parking spaces, interior drives, and ingress/egress into parking areas must be paved with asphalt or concrete to the nearest paved street. All parking areas shall be clearly painted to show each parking space."
15. Article 7, Chapter 16 requires parking areas to be landscaped on the perimeter and also on the interior.
16. 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

17. The 2002 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."

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: IG, Industrial: General

Surrounding Land Use:

North: Industrial
South: Agriculture
East: Agriculture
West: Industrial

CRITERIA FOR DECISIONS:

(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 36-7-4-918.4) that:

DECISION CRITERIA

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 use variance will not be injurious to the public health, safety, or general welfare of the community as the approval of the use would require that the petitioner provide the minimum number of required parking spaces onsite.

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 adjacent properties will not be affected in an adverse manner as the surrounding uses are agricultural and industrial and the site modifications due to the expansion of the use would be required to be reviewed and approved by the Technical Review Committee.

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 not result in a practical difficulty as the property may be used for a use permitted in the IBD zoning district. Staff finds that the practical difficulty is based on the perceived reduction of, or restriction on, economic gain. The petitioner should explain how approval of this variance will result in a practical difficulty in the use of the property.

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 petitioner may use the property for a use consistent with the IBD zoning district.

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

Staff Finding:

The granting of use variance does interfere with the Comprehensive Plan as it states that these areas are “intended to serve as both the permanent home of small scale businesses and incubators of new local companies.” Automobile sales would not be a complementary use to an industrial area. An automobile repair facility may be considered a complimentary use, provided any expansion of the current use meets developmental standards.

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

STAFF RECOMMENDATION

Based on the written findings above, staff recommends **denial** of the use variance for the operation of automobile sales;

And

If the following modifications to the petition were made, staff would recommend approval of the variance from developmental standards.

1. A minimum number of 10' x 20' parking spaces shall be provided onsite, number of which shall be determined by the Board.
2. All improvements must meet development standards in regards to parking, landscaping and any other areas deemed necessary.
3. A site development plan shall be submitted for review and approval by the Technical Review Committee.



To The Franklin Plan Director and
The Franklin Planning and Zoning Commission

Re: Hougland Packing Company property - Eastview Drive

During the late 1950's the Hougland canning factory ceased operations in Franklin, Indiana. The successor to that business was a warehouse/industrial space leasing business run by Dan Cravens. The buildings fell into disrepair to the point that Cravens determined that repair of the buildings was not economically feasible. At this point in time in the late 1960's, Robert Clawson and the Reed family brought their manufacturing business to Franklin from Shelbyville, making products under the name of R.C.O. Reed. R.C.O. Reed then split up, with R.C.O. Reed retaining the manufacturing and Robert Clawson retaining the deteriorating buildings/warehousing. For the past 40 years, Robert Clawson has made his living renting space to various and sundry types of businesses that require outside storage and outside sales facilities afforded by the old Franklin Zoning Ordinance that classified the Hougland complex of business as "Open Industrial" that accommodated renters who need affordable space to conduct business.

Robert Clawson has never intended to abandon this "Open Industrial" zoning and use. He has leased his buildings to Arvin, to Grimmerschmidt, to Mr. Cloye for vehicle repair and casual sales of vehicles, to Mr. Gene Barger for heavy construction equipment and dirt moving, to Jerry Johnson for vehicle repair and casual sales, to S & S Nursery for landscaping and sale of trees and shrubs, and to Manchester Truck & Auto, the present occupant of the space formerly used by S & S Nursery. Manchester repairs cars and trucks and it wants to sell these repaired cars and trucks in an open secure area next to their repair shop.

Franklin Planning and Zoning Department refuses to recognize the "Grandfather" clause in its 2004 zoning ordinance because paragraph 10.4, B-8, Page 10-6 of the present ordinance states stating that Manchester and Clawson will either have to rezone one building of the Hougland Complex of buildings, or will have to obtain a special use exception, both of which are time consuming, expensive and a hindrance to the economic well-being of Franklin.

Robert Clawson requests the Franklin Plan Commission to reaffirm his "grandfathered" status of "Open Industrial" for the entire Hougland Packing Company complex of buildings.

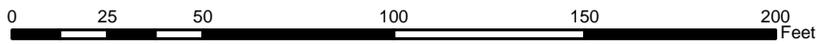
Respectfully submitted this 20 day of May, 2011.

Robert L. Clawson
dba Hurricane Road Industrial Development, Inc.

1085 Eastview Drive



1 inch = 50 feet

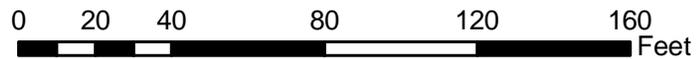


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1085 Eastview Drive

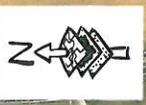
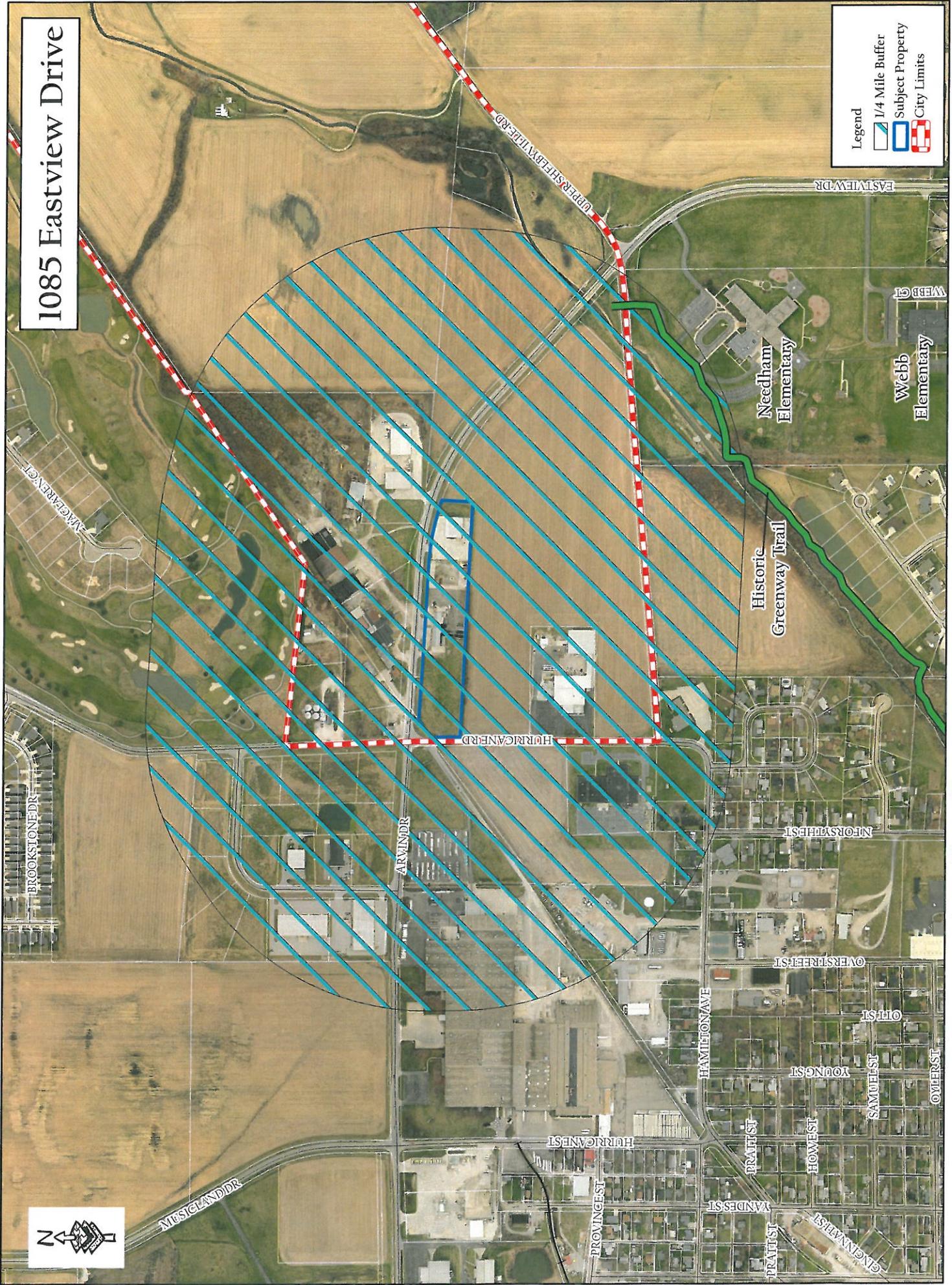


1 inch = 50 feet



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1085 Eastview Drive



1 inch = 600 feet

0 300 600 1,200 1,800 2,400 Feet

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Eastview Dr

Eastview Dr

50 feet

10 m





