



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT › DEPARTMENT OF ENGINEERING
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BZA Staff Report

To: Board of Zoning Appeals Members

From: Kevin Tolloty, Associate Planner

Date: August 30, 2011

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

REQUEST:

Case ZB 2011-12 (UV/V)...Hurricane Road Industrial Development Company. A request for variances from the City of Franklin Zoning Ordinance:

1. Article 3, Chapter 21; operation of automobile retail sales (use variance)
2. Article 10, Chapter 4; expansion of a legal non-conforming use
3. Article 7, Chapter 10; striping of parking spaces
4. Article 7, Chapter 10; screening of repair vehicles
5. Article 7, Chapter 10; parking in designated areas

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 case was heard at the August meeting. The case was continued in order to clarify the plans of the petitioner with staff.
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. Staff met with the petitioner, agent and current tenant of subject property on August 15, 2011.
 9. 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.
 10. 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.
 11. Petitioner is asking for relief from the requirement of screening vehicles associated with the auto repair and to allow repair vehicles to be located directly adjacent and perpendicular to the building.
 12. 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."
 13. The petitioner indicated a maximum of 25 vehicles would be on display for sale and 2 employees would be associated with the proposed auto sales.
 14. According to Article 7, Chapter 10: a minimum of 1 off-street parking space is required for each vehicle on display plus 1 space for each employee associated with auto sales.
 15. A total of 27 off-street parking spaces would be required for the proposed auto sales. There is currently space available on the property for all of the off-street parking spaces.
 - 2 auto sales employees = 2 spaces
 - 25 display vehicles (max.) = 25 spaces

16. The petitioner is asking that the display area parking for auto sales be delineated, but not individually striped. (See attached site plan.)
17. 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.”
18. 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.”
19. The existing signs are currently in violation on the Zoning Ordinance. The petitioner needs to address these with staff.
20. 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
21. 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 variance from the use requirements, 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 and IC 36-7-4-918.5) 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.

- 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 and variances associated with the operation of automobile sales;

And

Approval of the variance request to allow the expansion of a nonconforming legal use with the following condition:

1. All outdoor storage of vehicles for repair shall be properly screened.

If the Board finds that sufficient evidence to approve the use variance and the following modifications to the petition were made, staff would recommend approval:

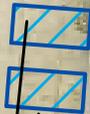
1. Provide a minimum of 2 striped parking stalls, 10 feet by 20 feet in size.
2. No more than 25 vehicles to be displayed for sale.
3. The vehicle display area shall be delineated by a solid white line. The area must be a minimum of 20 feet in depth and sufficient to accommodate 25 vehicles.

1085 Eastview Drive - Proposed Parking Layout



1050

EASTVIEW DR



35
Proposed Employee Parking



Proposed Auto Sales Parking

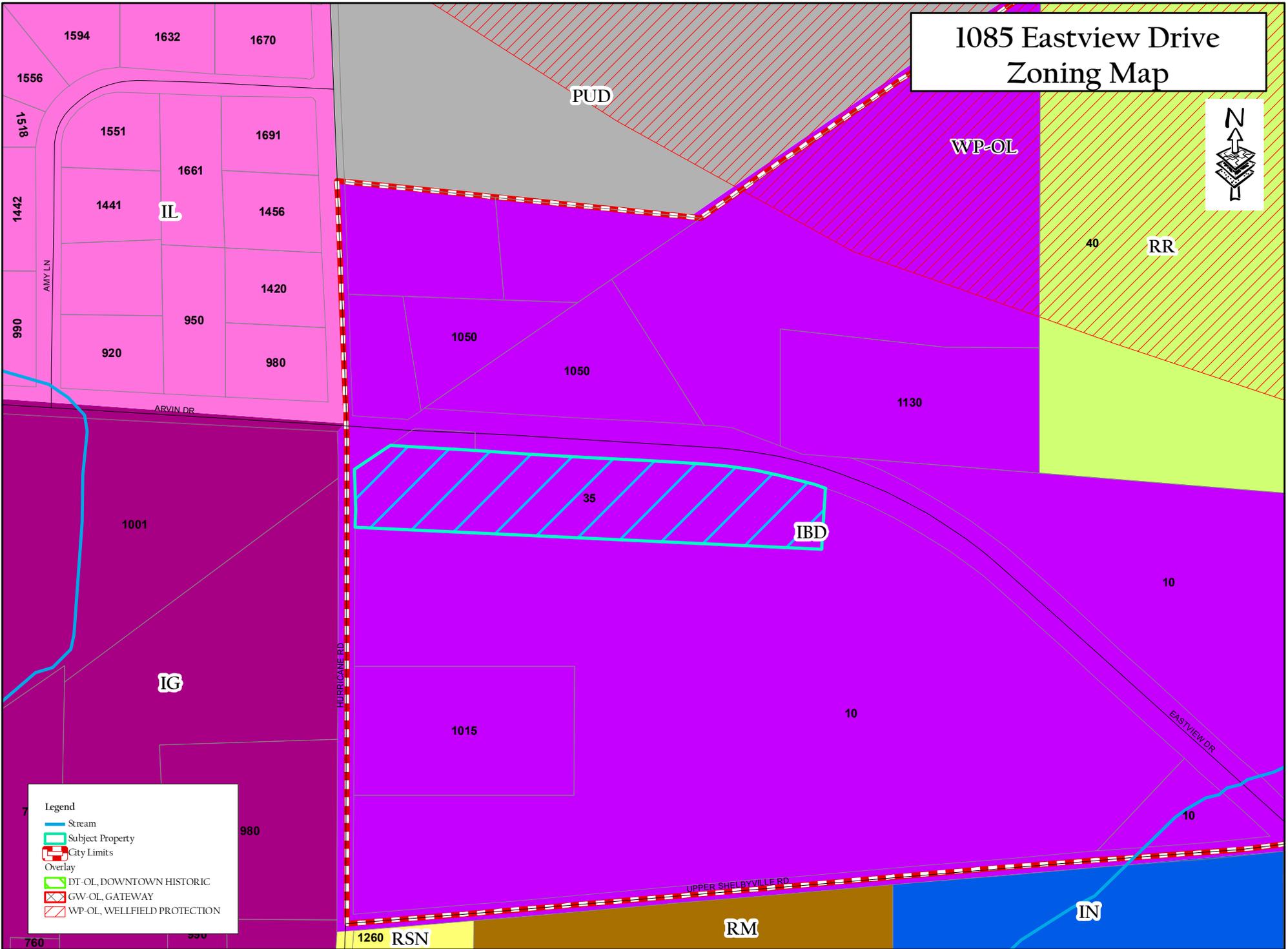
10

1 inch = 50 feet



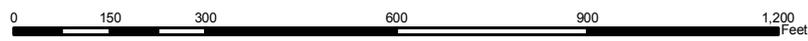
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1085 Eastview Drive Zoning Map



- Legend**
- Stream
 - Subject Property
 - City Limits
 - Overlay
 - DT-OL, DOWNTOWN HISTORIC
 - GW-OL, GATEWAY
 - WP-OL, WELLFIELD PROTECTION

1 inch = 300 feet



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