



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT • DEPARTMENT OF ENGINEERING

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

August 3, 2011

Members Present:

| | |
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| Richard Pfifer | Chairman |
| Bob Swinehamer | Vice Chairman |
| Phil Barrow | Member |
| Rev. Richard Martin | Member |

Members Absent:

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| Tim Holmes | Secretary |
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Others Present:

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| Joanna Myers | Senior Planner |
| Kevin Tolloty | Associate Planner |
| Lynn Gray | Legal Counsel |
| Jaime Harshman | Recording Secretary |

Call to Order:

Richard Pfifer called the meeting to order at 7:00 p.m.

Approval of Minutes:

Phil Barrow made a motion to approve the July 6, 2011 minutes as presented. Bob Swinehamer seconded the motion. The members voted unanimously to approve the minutes.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

ZB 2011-11 (V): Ye Ole Country Flea Market:

Ms. Myers stated that the case was being withdrawn but has not received a letter from the petitioner. She requested that the Board dismiss the case.

Action taken on ZB 2011-11 (V): Ye Ole Country Flea Market:

Phil Barrow made a motion to dismiss the case. Rev. Martin seconded the motion. The motion passed unanimously.

New Business:

ZB 2011-07 (V): Allen Paris:

Ms. Myers stated the petition is for a request to allow the reconsideration of the variance that was previously heard at the July 6, 2011 meeting. The request was regarding the installation of a six foot fence in the front yard. The ordinance states that a reconsideration of an application can be filed within 30 days of action. That requirement has been met. The Board is being requested to redocket the case for next month.

Ms. Gray stated the petitioner has a couple of options. They can take the case to court or they can go back to the Board for reconsideration. The Board has to decide if there are sufficient grounds to reconsider and if so, it would be placed on the agenda for next month's hearing. Substantial new information and new facts must be presented that weren't known or presented at the first meeting.

Ms. Myers stated she did receive a letter from Rick Davis that was provided to the Board.

Mr. Allen Paris 4001 E CR 100 N, stated there are two points and one was not known until 2 days after the last hearing. He stated that a 3 foot fence is not available in the high end products. The upper end products start with a 4 foot. The second item is clarification of the security issue that was spoken of last time. His wife's main concern is that 7 years ago he was mugged in his own driveway in Atlanta, which resulted in a 2 day stay in an intensive care unit. He stated that it resulted in amnesia and he lost all memories from his high school years. He needs to erect a 6 foot fence for the sense of security for his wife. Mr. Swinehamer stated that the 3 foot fence across of front of yard is already permitted. Ms. Gray stated that it is not part of the variance request.

Mr. Paris stated that his wife doesn't come to public meetings. Mr. Swinehamer stated that she had the option of attending the meeting and waived her right by not attending. Mr. Barrow questioned if they had considered another fence supplier. Mr. Paris stated they talked to 3 different suppliers but no one had the fence available. Ms. Gray stated that 3 foot was not part of request to be reconsidered. Mr. Swinehamer stated that there is no new information other than that Mr. Paris is second guessing. Mr. Barrow stated that he thought the outcome of the last meeting was very clear and everyone was satisfied.

Mr. Larry Paris, 1778 Putter Drive, stated that he thought it was very clear at the last meeting and didn't see any reason to revisit the case.

Mr. Swinehamer stated the height can't be considered and he doesn't see any reason to grant the motion as the petition is identical to the petition at the last meeting.

Action taken on ZB 2011-07 (V): Allen Paris:

Bob Swinehamer made a motion that the request be denied due to the fact that no new information was presented. Phil Barrow seconded the motion. The motion passed unanimously.

ZB 2011-12 (UV & V): Hurricane Road Industrial Development Company:

Ms. Myers stated that the petition is for a use variance and developmental standards variance to allow auto sales to operate from 1085 Eastview Drive and also to allow the expansion of a legal nonconforming use. The property is zoned Industrial Business Development and is included in the City of Franklin's buffer zone. A variance is needed as auto sales are not listed as a permitted use under the IBD zoning district. The ordinance states that a legal nonconforming use must come before the Board to expand outside the area that it had previously occupied on the site. The property has historically had an auto repair operating portion of the structure. The ordinance does allow the use to expand within the structure itself as the structure was constructed in a manner that supports that, however, the expansion to the exterior of the site is what is before the Board.

Jack Rogers, Rogers and Gesse, representing Mr. Clawson, owns what used to be known as the Houghland Packing Company. Mr. Clawson has owned the complex for more than 30 years and it has been operated as a heavy industrial site. It has been rented out as a street sweeper repair, a plant and has served as an incubator for the City of Franklin.

Bob Clawson, 3300 W. SR 44, stated that his property is up on Eastview Drive on both sides of the road and there are several buildings. It was the old Houghland canning factory. He stated that he has had several different renters over the years. The property has always been heavy industrial and he intends to keep it heavy industrial. He has been grandfathered in for 30-40 years. Mr. Clawson stated that he has brought a couple of hundred jobs to town over the years. He tries to make a building that can serve as many people as possible.

Mr. Rogers stated the use variance would not hurt any of the businesses around it. There is a lot of exterior storage.

Mr. Rogers stated the variance would not be injurious to the public.

Mr. Rogers stated not granting the variance will result in a practical difficulty. They don't know what tenants are going to need or who they are going to be.

Mr. Rogers stated the characters of the current properties are suited for the type of business that they are proposing.

Mr. Rogers stated the master plan doesn't interfere with the variance. The newest buildings on the property have been there since 1939. The master plan does not reflect what is actually there and what has been the use of the area for 2 generations or more.

John Manchester, 1601 Acorn Rd, stated that he is a mechanic and plans to grow his business as much as he can. He currently has had the business for a year and has 6 employees plus himself and his wife. Mr. Rogers stated that Mr. Manchester would like to sell used vehicles in the property adjoining what he currently occupies. He would like to use the property next to where he has rented. Mr. Manchester stated that it is a great location and is fenced in. He would like the variance to be able to sell used cars out of the lot. He stated there is a building to the west that sells and repairs cars also.

Mayor Fred Paris stated that how Mr. Manchester tries to police the area would be a concern. He stated that he is caught in a buffer zone. He would like to have with certain conditions with the variance. The road is very close to the buildings on the property.

Ms. Myers stated that the location of the road is not an issue. It's a legal non-conforming site issue and is not in violation of setbacks. She stated that auto repair is not a permitted use. Mr. Swinehamer stated that the property is unique in that the zoning has been changed, which is why he must request a variance even though in the past there has been auto sales there. He stated that he believes there is an unnecessary hardship.

Ms. Myers stated within the ordinance referring to auto repair, it states that where those are stored shall be screened with an opaque fence. All parking areas are required to be paved and striped. She stated with the expansion of the use, Staff's recommendation is that the areas that are expanded to be brought into compliance with the current ordinance requirements by going through the site development plan review process, therefore bringing some of the other non-conforming site features into compliance.

Mr. Clawson stated that to pave the area would be a problem because water comes down from the road onto the property.

Ms. Myers stated that for auto sales, the ordinance states that the cars shall be in striped parking stalls in order to keep them compliant with setback requirements in proximity. Staff does recommend denial of the use variance to allow auto sales. Mr. Pfifer questioned if she had seen the drainage plans. Ms. Myers stated that she hadn't seen any site development plans. She stated that drainage concerns would need to be handled through tech review. Mr. Swinehamer questioned if the small cement area on the property would qualify for paving. Ms. Myers stated it potentially could.

Ms. Gray questioned if the area needed to be designated as a sales area. Ms. Myers stated that a sales area requires that the area where the cars are to be stored on striped asphalt or concrete. Any areas not brought up to standards are required to meet paving and asphalt standards. She stated they could change the fence from opaque to wood or masonry and leave that area as it currently is. If it is to be part of the show area, it would go with the use variance and the area would have to be striped.

Ms. Myers stated that Staff can't provide direct answers to a lot of questions because they don't know what the intent is.

Mr. Swinehamer questioned if there was a way to allow a compromise. Ms. Myers stated the use variance is only for the sales itself. The auto repair can continue. Ms. Myers stated that Staff is recommending that the area be upgraded from a chain link fence to an opaque fence with no paving for vehicles that are being repaired. Ms. Gray stated that it is hard to know if it is in compliance or not without knowing where it's going to be. Ms. Myers stated the BZA is to determine the number of parking spaces. The Board will also need to know how many employees operate under auto sales and the maximum number of cars to have on sale at one time. This would tell how many parking spaces would be needed on site.

Mr. Rogers stated that it's in the buffer zone and we need look at other auto sales in the area. Most do not have parking spaces. He stated if they have to take front of building for parking spaces, then they don't have any distance between where the cars are parked and the road. Ms. Gray stated the problem is without the site development plan the petitioner may not be able to do what they want to do. Mr. Manchester stated that he would separate the cars being repaired from the cars being sold.

Staff would recommend that the case be continued to allow the property owner, the tenant and Staff to work through some of the details and come back before the Board next month.

Action taken on ZB 2011-12 (UV & V): Hurricane Road Industrial Development Company:

Bob Swinehamer made a motion to continue the case to September 7th, 2011 meeting. Phil Barrow seconded the motion. The motion passed unanimously.

Other Business:

None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 7th of September 2011.


Richard Pfifer, Chairman


Tim Holmes, Secretary