



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: January 19, 2012

Re: Case ZB 2011-17 (SE/V)

REQUEST:

Case ZB 2011-17 (SE/V)...Franklin Truck & Auto Solutions. A request for a special exception of the City of Franklin Zoning Ordinance Article 3, Chapter 21 to allow an auto and truck repair facility and a variance from Article 7, Chapter 10 to allow a chain link fence with slats to be used as screening in the Industrial: Business Development (IBD) zoning district. The property is located at 231 Commerce Drive.

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. This case was originally scheduled to be heard at the December 7, 2011 Board of Zoning Appeals meeting, but due to legal ad errors in December and January, has been rescheduled for the February 1, 2012 meeting.
2. The petitioner is requesting a special exception to allow the subject property to be used for automotive repair and a variance from development standards to use a chain link fence with slats as their screening requirement.
3. Property History
 - a. The property is currently in violation of the Zoning Ordinance for opening without receiving a special exception.
 - b. There have been ongoing zoning violations starting in June 2011:
 - i. June 22, 2011 – Violation letter sent regarding operating without a special exception, excessive banners and installation of signs without permits.
 - ii. August 26, 2011 – Notice of fines sent regarding operating without a special exception, excessive banners and installation of signs without permits.
 - iii. September 30, 2011 – Second notice of fines sent regarding operating without a special exception, excessive banners and installation of signs without permits.

- c. As of this report, the signs have received proper permits and the banners have been removed.
 - d. The property was previously home to New Wave Communications, a cable and telecommunication provider.
4. 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.
 5. A minimum of one (1) off-street parking space should be required per 200 square feet of office space plus one space per employee on the largest shift.
 - 2200 square feet = 11 spaces
 - xx employees = xx spaces
 - Total spaces = 11+ xx spaces
 6. The total number of parking spaces required shall be determined by the Board, based on the previous formula. The total number of employees is not known at this time.
 7. There is approximately 560 feet of fencing surrounding the rear and sides of the property. Before the automobile repair business was started, the fence was a chain link fence (no slats) with barbed wire at the top of the fence.
 8. The barbed wire fence is considered a legal nonconforming site feature.
 9. Article 7, Chapter 10 (Part 1) (E) (2) (b) of the Zoning Ordinance states “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.
 10. 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
 11. 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: MXR, Mixed Use: Regional Center
 East: IL, Industrial: Light
 West: IBD, Industrial: Business Development

Surrounding Land Use:

North: Church (ZB 2011-04_UV)
 South: Lowe’s
 East: Vacant/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 36-7-4-918.2 & 918.5) that:

DECISION CRITERIA – SPECIAL EXCEPTION

- 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. It appears that there is a fairly large paved area that could be used for parking, however, the required striping would need to be provided.

- 2. **Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.***

Staff Finding:

The proposed use will be required to meet the requirements of the City of Franklin and State of Indiana. The current appearance of the property would not meet the screening requirements. There is a pending variance to allow for a chain link fence with slats which is not permitted by the Zoning Ordinance.

- 3. **Ordinance Intent: Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.***

Staff Finding:

The requested use is listed as a special exception under the IBD zoning district regulations and the property is surrounded by other industrial and industrial retail uses. The business would be complimentary to surrounding properties.

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

Staff Finding:

The granting of the special exception does not interfere with the Comprehensive Plan as automobile and truck repair could be considered a complimentary use to normal industrial activities.

DECISION CRITERIA – VARIANCE FROM DEVELOPMENTAL STANDARDS

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 will be injurious to the public health, safety, morals, or general welfare of the community. While the proposed chain link fence with slats does provide additional screening over an unslatted fence, it does not provide a completely opaque screening of the vehicles. As can be seen in photographs of the site (see attached), the slatted chain link fence does not provide appropriate screening.

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:

It is difficult to determine if the value of adjacent properties would be affected if the variance were to be approved. Because the surrounding properties are mainly industrial, it is not likely that visible storage would be a hindrance. In the event that neighboring properties are used in a more commercial manner, as would be permitted by right, the visible outdoor storage may be seen as detracting in value.

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 required types of fencing could be installed. 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.

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 **approval** of the special exception for the operation of automobile and truck repair, with the following conditions:

1. A minimum number of 10' x 20' parking spaces shall be provided onsite, number of which shall be determined by the Board.
2. Screening requirement must be fulfilled either through approval of variance or by installation of a 100 % opaque fence as described in the Zoning Ordinance.

And

Staff recommends **denial** of the variance from development standards.



Property prior to becoming Franklin Truck & Auto Solutions (note original condition of fence)



Chain link fence with slats



Current parking area

231 Commerce Drive

COMMERCE PARK DR

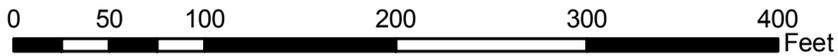
COMMERCE DR



Legend

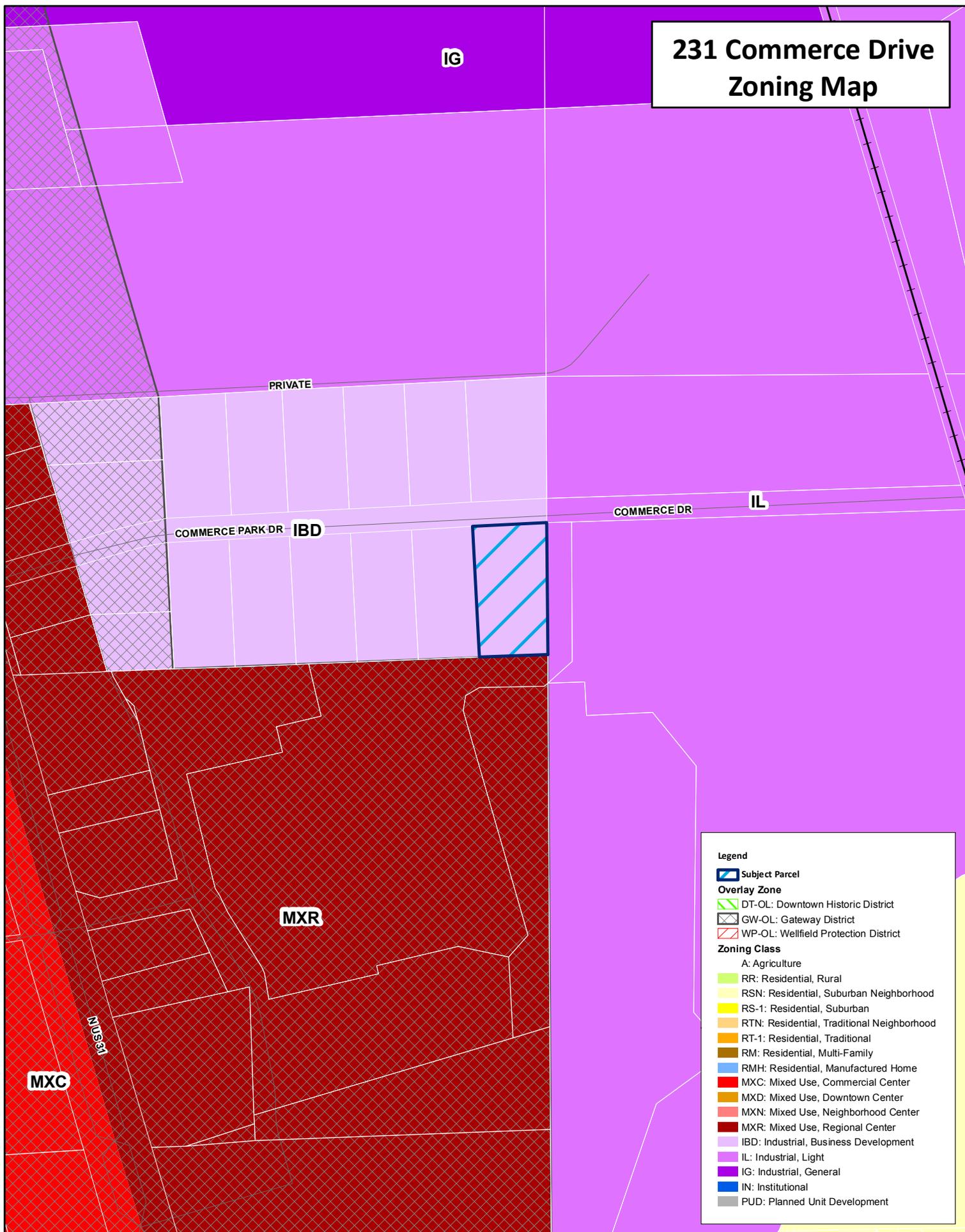
 **Subject Parcel**

1 inch = 100 feet



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Franklin Planning Dept.

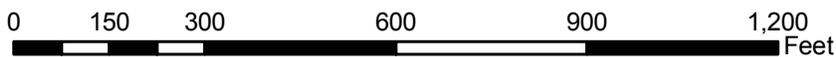
231 Commerce Drive Zoning Map



Legend

- Subject Parcel
- Overlay Zone**
- DT-OL: Downtown Historic District
- GW-OL: Gateway District
- WP-OL: Wellfield Protection District
- Zoning Class**
- A: Agriculture
- RR: Residential, Rural
- RSN: Residential, Suburban Neighborhood
- RS-1: Residential, Suburban
- RTN: Residential, Traditional Neighborhood
- RT-1: Residential, Traditional
- RM: Residential, Multi-Family
- RMH: Residential, Manufactured Home
- MXC: Mixed Use, Commercial Center
- MXD: Mixed Use, Downtown Center
- MXN: Mixed Use, Neighborhood Center
- MXR: Mixed Use, Regional Center
- IBD: Industrial, Business Development
- IL: Industrial, Light
- IG: Industrial, General
- IN: Institutional
- PUD: Planned Unit Development

1 inch = 300 feet



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