



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Joanna Myers, Senior Planner
Date: August 30, 2013
Re: Case ZB 2013-11 (UV & V) Don Bunch – Auto Sales

REQUEST:

Case ZB 2013-11 (UV & V)...1195 US 31. A request for a use variance of the City of Franklin Zoning Ordinance Article 3, Chapter 5 to allow auto sales and a developmental standards variance from Article 5, Chapter 4 to allow the outdoor display of merchandise in the Residential: Rural (RR) and Gateway Overlay (GW-OL) zoning districts. The property is located at 1195 US 31, which is located within the extraterritorial area (buffer zone).

PURPOSE OF STANDARD:

The "RR", Residential: Rural zoning district is intended to provide areas for a mixture of agricultural and residential land uses. This mixture is intended to promote and maintain agricultural operations, while also allowing increased development in areas adjacent to developed infrastructure. This district should be used to provide unique, rural housing options and the future ability to extend urban infrastructure.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City's entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area's traffic management issues.

CONSIDERATIONS:

1. The petitioner is requesting a use variance and developmental standards variance to allow the sale of autos from the property located at 1195 US 31. The petitioner is requesting approval to allow 15-20 autos to be displayed for sale at one time. See attached site plan and photos. (Note: The petitioner is not currently selling autos at this location. The vehicles were brought to the site and then removed in order to take photos for the purpose of providing the exhibit for the petition.)
2. The subject property is located in the extraterritorial jurisdiction of the city. The north property line is immediately adjacent to the city limits.
3. The petitioner currently operates a produce market from this property and includes a single-family residence. The produce market is a legal nonconforming use. The petitioner has indicated that if the use variance is approved they will not be using the property as a produce market.

4. 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.”
5. Article 7.10 states that 1 parking space shall be required for each employee, 1 space for each vehicle on display, and 1 space per 250 sq.ft. of office space. Per the attached site plan, a total of 15 paved/concrete and marked parking spaces can be provided onsite.
6. Based on the above requirements, one space would be for employee parking, one space would be for customer parking, and 13 spaces would be for display vehicles.
7. The property would be accessible by northbound US 31 traffic only by use of the existing south entrance and would use the one-way drive aisles then exit the property by use of the existing north entrance.
8. The petitioner has provided an exhibit of the car count for the produce market from June 15 thru July 15, 2013.
9. Article 5.4 of the Zoning Ordinance states: “Merchandise may be stored or displayed for sale to customers only in areas immediately adjacent to the primary structure on each property. The storage of outdoor merchandise for sale elsewhere on the property shall be prohibited. This area shall be (1) enclosed by a minimum 8 foot tall wall, or (2) composed of a 3 foot tall base wall topped by wrought iron or tubular steel fencing. No merchandise other than trees shall be visible above the wall or fencing.”
10. The petitioner is requesting approval to allow the outdoor display of vehicles for sale.
11. The 2002 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Rural Residential. “Rural residential areas are intended to include only single-family homes. Accessory residences may be incorporated into these areas so long as adequate off-street parking and compatibility with the scale, function, and design of the areas can be ensured. Rural residential areas are located outside of the Franklin City limits and are primarily those areas where development history, economic, natural features, or other factors make home development preferable to agricultural uses. Rural residential areas are intended to include both large lot developments and conservation subdivisions, where lots are clustered to preserve large areas of natural amenities or farmland.”
12. 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: PUD, Planned Unit Development
South: A, Agriculture
East: RR, Residential: Rural
West: RSN, Residential: Suburban Neighborhood

Surrounding Land Use:

North: Agriculture
South: Single-family dwelling/agriculture
East: Single-family dwelling/agriculture
West: Single-family residential

CRITERIA FOR DECISIONS – USE VARIANCE:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all use 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 use variance 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 – USE 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 use variance will not be injurious to the public health, safety, or general welfare of the community as the proposal is consistent with the current use of the property and it is not anticipated that additional traffic would be generated.

- 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 unclear if the proposed use as an auto sales facility will affect the adjacent properties in a substantially adverse manner as the current use of the property is also a commercial use but the proposed auto sales may have a different impact. The petitioner should explain how approval of this variance will not adversely affect the adjacent properties.

- 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 petitioner may continue to use the property as a single-family residence and operate the produce market. Staff finds that the practical difficulty of the property 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 continue to use the property as a residence and operate the produce market, which is a legal nonconforming use.

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 the area is intended to remain residential and agricultural in nature. It is not anticipated that the area include commercial operations.

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

STAFF RECOMMENDATION – USE VARIANCE

Based on the written findings above, staff recommends **denial** of the petition.

If the Board finds sufficient evidence to approve the proposed use variance, staff would recommend the following conditions be placed on the approval:

1. All parking areas and interior drives shall be paved/concrete.
2. The vehicle display parking spaces and additional parking spaces shall be identified by appropriate pavement markings consistent with the attached site plan.
3. A maximum of 13 vehicles shall be on display at one time and shall be parked within the delineated parking spaces.
4. The interior drives shall be marked with appropriate pavement marking indicating one-way traffic.
5. The operation of the produce market would cease.

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 will not be injurious to the public health, safety, morals or general welfare of the community as the vehicles would be parked consistent with regulations of the Zoning Ordinance and outside the visibility triangle of US 31..

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 unclear on if the approval of this variance will have an adverse effect on adjacent properties as the property has historically had outdoor display of merchandise. However, the outdoor display of produce is different than the outdoor display of vehicles for sale. The petitioner should explain how approval of this variance will not adversely affect the adjacent properties.

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 petitioner may continue to use the property as a single-family residence and operate the produce market. Staff finds that the practical difficulty of the property 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.

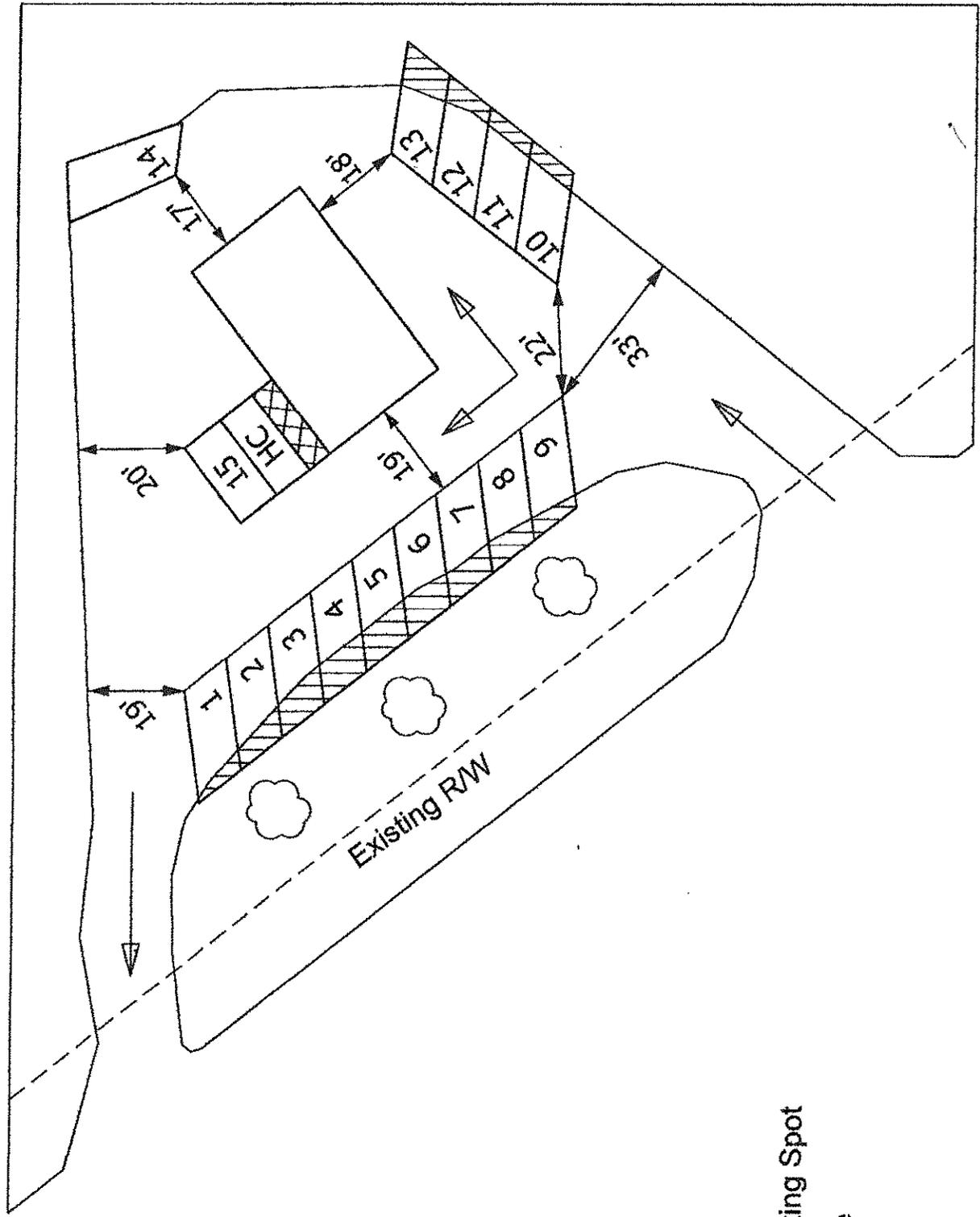
STAFF RECOMMENDATION – DEVELOPMENTAL STANDARDS VARIANCE

Based on the written findings above, staff recommends **denial** of the petition.

If the Board finds sufficient evidence to approve the proposed variance, staff would recommend the following conditions be placed on the approval:

1. A maximum of 13 vehicles shall be on display at one time and shall be parked within the delineated parking spaces.

(NOTE: 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.)



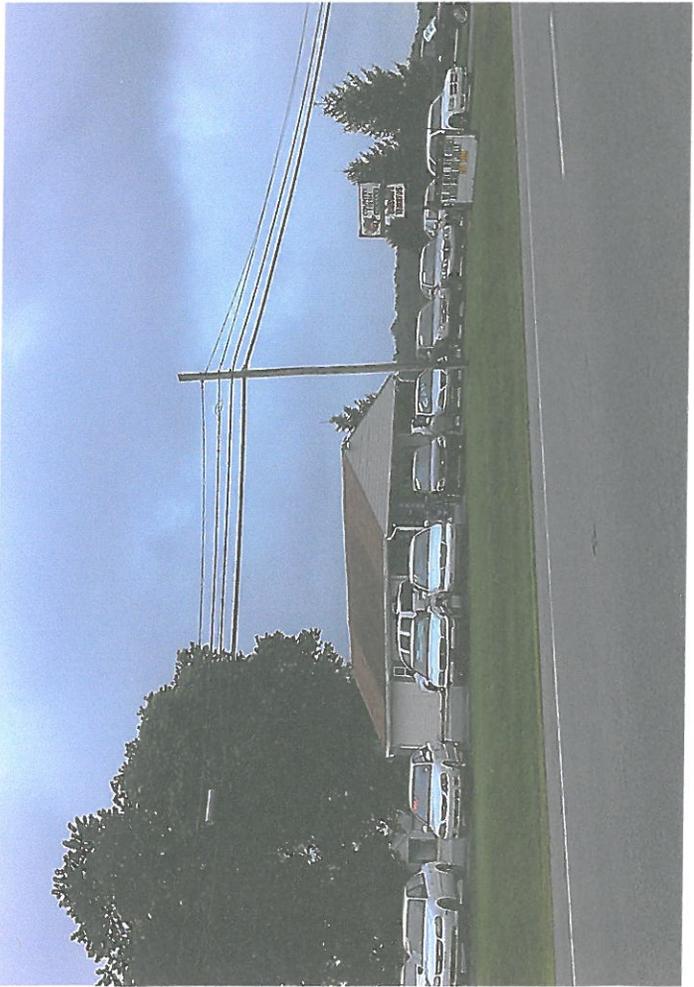
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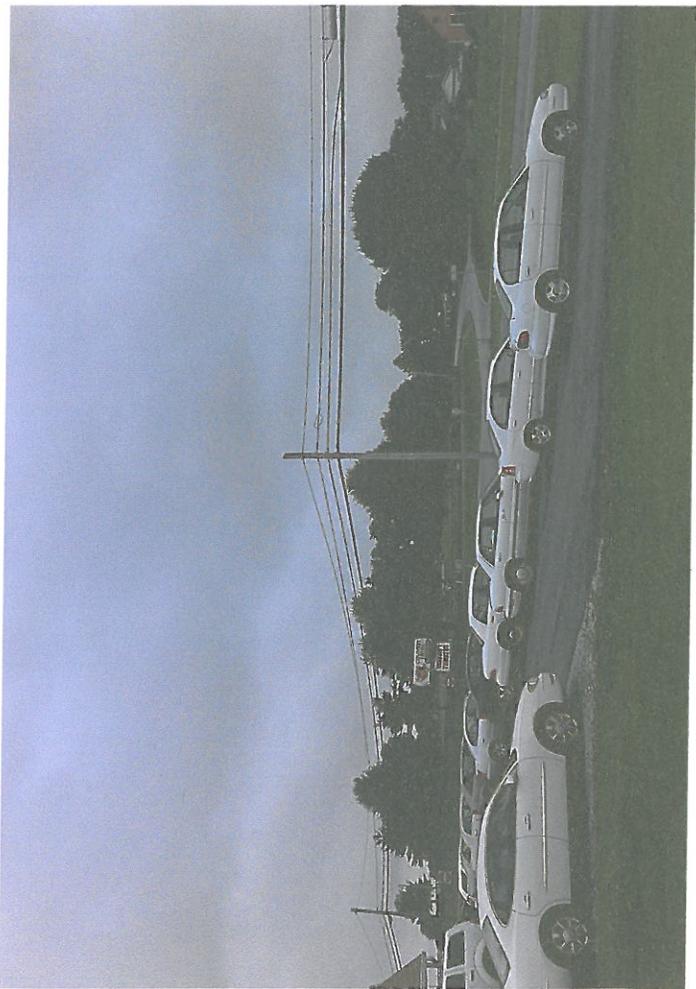
LEGEND

- HC Handicap Parking Spot
-  Handicap Aisle
-  Remove

Note: 60^ Parking Spots







Car count for Country Fresh Produce market

6/15	58	7/2	38
6/16	47	7/3	44
6/17	31		
6/18	27	7/4	51
6/19	33	7/5	63
6/20	49	7/6	76
6/21	47	7/7	69
6/22	59	7/8	54
6/23	63	7/9	59
6/24	42	7/10	47
6/25	38	7/11	61
6/26	44	7/12	49
6/27	52	7/13	65
6/28	68	7/14	76
6/29	64	7/15	47
6/30	49		
7/1	42		