



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & 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: Joanna Myers, Senior Planner
Date: August 27, 2013
Re: Case ZB 2013-12 (UV & V) Julie Stewart & Christine Owens

REQUEST:

Case ZB 2013-12 (UV & V)...383 E. Madison Street. A request for a use variance of the City of Franklin Zoning Ordinance Article 3, Chapter 10 to allow the operation of a variety store and development standards variances from Article 7, Chapter 10 and Article 7, Chapter 16 as they relate to off-street parking requirements:

1. Article 7.10 Part 1(A)(3) – Parking stall size less than 10' x 20'
2. Article 7.10 Part 3(A)(1) – Parking areas not required to be paved/concrete or striped
3. Article 7.10 Part 3(A)(4) – Parking area not to be curbed
4. Article 7.10 Part 3(A)(5) – Less than minimum number of required parking spaces
5. Article 7.10 Part 3(D) – No bicycle parking
6. Article 7.16(E) – No perimeter parking lot landscaping
7. Article 7.16(F) – No interior parking lot landscaping

in a Residential: Traditional Neighborhood (RTN) zoning district. The property is located at 383 E. Madison Street.

PURPOSE OF STANDARD:

The "RTN," Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

CONSIDERATIONS:

1. The petitioner is requesting a use variance to allow a variety store that sells recycled, repurposed, and reclaimed items from the first floor of an existing two-family residential structure at 383 E. Madison Street. The petitioner has indicated that the second story will not be used as a dwelling unit. The petitioner is also requesting seven (7) variances from development standards related to off-street parking. See attached Detailed Statement of Reasons submitted by the petitioner.

2. The petitioner currently operates Salvage Sisters Antique Market from the property located at 398 E. Jefferson Street, which is located southeast of the subject property. The proposed store at 383 E. Madison Street would be a complementary store to Salvage Sisters. (See attached exhibits.)
3. A similar use variance request filed by Julie Stewart (ZB 2011-03) was heard by the Board of Zoning Appeals in April and May of 2011. The petitioner filed a request to withdraw the case on July 5, 2011. No official action was taken on the case.
4. The subject property is legal nonconforming in relation to the lot, the structure, the use, and site features. The existing residential structure contains two dwelling units.
5. 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.”
6. A variety store is defined as “a retail establishment that sells a multitude of consumer goods” and is classified as a Retail Use (Medium Scale) land use per the City of Franklin Zoning Ordinance.
7. A variety store is listed as a permitted use in three of the four Mixed Use zoning districts: MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center). It is not listed as a permitted use or special exception in the MXN (Mixed Use: Neighborhood Center) zoning district.
8. According to Article 7.10:
 - a. A minimum of 1 off-street parking space is required for every 300 sq.ft. of gross floor area of the variety store (rounded to the nearest complete space) plus one (1) space for each employee working on the largest shift. (1st floor = 1,532 sq.ft. 1 employee)
 - b. Parking spaces shall be provided on the same lot for which they are required.
 - c. Minimum parking stall size is 10’ x 20’ and must be striped.
 - d. Each parking space and interior drive must be paved with asphalt or concrete.
 - e. A minimum of 2 bicycle parking spaces shall be provided.
9. According to Article 7.16:
 - a. All parking lots shall be separated from the right-of-way with a minimum of a 10’ landscape area.
 - b. A minimum of 5% of the parking area shall be landscaped with landscape islands and trees.
10. Based on the square footage of the proposed variety store and total number of employees, a total of six (6) parking spaces would be required to be located on site to comply with the Zoning Ordinance regulations. The petitioner is requesting variances regarding this requirement.
11. The petitioner is proposing to demolish the existing garage and provide additional parking spaces accessed by use of the alley less than the required size within a gravel lot, with no striping or landscaping. The lot is 46 feet in width.

12. The subject property is immediately adjacent to MXD zoned properties to the south. However, due to the property's location, vehicular traffic must travel through the residential neighborhoods to get to the property and then would need to use the alley in order to utilize the off street parking area. There is no direct access from Jefferson Street as Yandes Street is one-way south.
13. In 1998, the property owner to the east (399 E. Madison Street) filed a request for a use variance to allow an additional dwelling unit for a total of 4 dwelling units. The use variance was not approved by the BZA. In 2010, the property owner to the west (365 E. Madison Street) filed a request for a special exception to add an additional dwelling unit for a total of 3 dwelling units. The special exception was not approved by the BZA. Discussion was held regarding the need for off street parking in both cases.
14. Staff received the attached correspondence from an adjacent property owner.
15. The 2002 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Core Residential. "The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin's historically significant homes. Land uses in these areas should be dominated by a diversity of single-family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated. The most significant land use relationships in this area are between the area's residential and non-residential uses, and between the area as a whole and the downtown. The area's mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area's sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes."

Surrounding Zoning:

North: RTN, Residential: Traditional Neighborhood
 South: MXD, Mixed Use: Downtown Center
 East: RTN, Residential: Traditional Neighborhood
 West: RTN, Residential: Traditional Neighborhood

Surrounding Land Use:

North: Residential (4 & 1 family) & storage
 South: Retail
 East: Multi-family dwelling
 West: Two-family dwelling

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 be injurious to the public health, safety, or general welfare of the community as the proposal compounds the current parking situation by increasing the need for off-street parking and results in an increase in the number of vehicles backing out into the alley. The Board may wish to inquire on how the petitioner proposes to address the parking needs of customers and the overall impact the proposal will have on parking, traffic patterns and uses.

- 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 proposed use of the residential structure for a commercial use as a variety store would negatively impact the adjacent properties by introducing a commercial use with daily customers into the residential neighborhood that would access the proposed parking by use of the alley.

- 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 two-family structure. 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 residential structure.

- 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 “historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated.”

STAFF RECOMMENDATION – USE VARIANCE

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

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCES:

(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 – DEVELOPMENT STANDARDS VARIANCES

- 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 variances will be injurious to the public health, safety, morals or general welfare of the community as the requirement that use variances meet the minimum parking requirements is in order to ensure that the traffic and parking associated with the use is provided on site and reduces the impact on the adjacent properties. In addition, the proposed location of the parking results in an increased number of vehicles backing into the alley.

- 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 due to the proposed construction of the parking area. 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 two-family structure with the existing parking as it is a legal nonconforming site feature. 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.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

(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.)

Detailed Statement of Reasons for Applying for Variance (Continued)

1. A use variance from the requirements of **Article 3, Chapters 10 and 2** to allow the operation of a variety store that sells recycled, repurposed, and reclaimed items in the RTN district. The store will be operated in conjunction with an existing business, Salvage Sisters, located at 398 E. Jefferson Street. See attached aerial maps showing the two locations.
2. A variance from the developmental standards of **Article 7, Chapter 10, Part 1.A.3** to allow parking space sizes to be less than the requirements set forth in the Parking Space Requirements table.
3. A variance from the developmental standards of **Article 7, Chapter 10, Part 3.A.5** to allow less than 6 parking spaces for the 1,532 square feet of gross floor area retail space. The retail space will be located on the first floor of an existing two-story building. The business will have one (1) employee working per shift. The second story will not be used as a dwelling unit. The existing garage will be removed to provide parking space.
4. A variance from the developmental standards of **Article 7, Chapter 10, Part 3.A.1** requiring all parking areas to be paved with asphalt or concrete and painted to show each parking space to allow unpaved parking.
5. A variance from the developmental standards of **Article 7, Chapter 10, Part 3.A.4** requiring all parking areas for non-industrial uses to be completely curbed to allow a parking area that is not curbed.
6. A variance from the developmental standards of **Article 7, Chapter 10, Part 3.D.** requiring a minimum of two (2) bicycle spaces and adequate facilities for securing parked bicycles to allow no bicycle parking spaces.
7. A variance from the developmental standards of **Article 7, Chapter 16, Section E** requiring a perimeter landscaping area that is a minimum of 10 feet in width to allow no landscaping around the parking area perimeter.
8. A variance from the developmental standards of **Article 7, Chapter 16, Section F(1) and (2)** requiring landscaping within parking lots to allow a parking area with no landscaping.



CKW LAND SURVEYING, INC.

301 E. JEFFERSON STREET, FRANKLIN, INDIANA
OFFICE (317) 736-0781 – FAX (317) 736-0791

THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED ON LIMITED ACCURACY IN MEASUREMENT. THEREFOR NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THIS DATA FOR CONSTRUCTION OF IMPROVEMENTS OR FENCES. ROAD, STREET, OR OTHER INFORMATION SHOWN HEREIN AFFECTING PLATTED LOTS HAS BEEN TAKEN FROM THE RECORDED PLAT OF SAID SUBDIVISION CONTAINING LOT, RIGHT-OF-WAY, EASEMENT AND OTHER INFORMATION. SIMILAR INFORMATION PERTAINING TO UNPLATTED TRACTS WILL NOT APPEAR UNLESS SO NOTED AND PROVIDED BY TITLE COMPANY.

TITLE COMPANY REFERENCE: *N/A*

BUYER: **Julie Stewart**

LENDER: *N/A*

PROPERTY DESCRIPTION (AS PROVIDED).

LAND DESCRIPTION

FORTY (40) FEET IN WIDTH OFF THE EAST END OF LOTS NUMBERED 6, 7, 8, 9, AND 10, IN ADDITION NUMBERED 6, AS LAID OFF TO THE TOWN, NOW CITY OF FRANKLIN, INDIANA, BY ROBERT HAMILTON.

ALSO, THE WEST HALF OF THE ALLEY LYING BETWEEN THE ABOVE DESCRIBED LOTS AND LOT NUMBERED 11 IN SAID ADDITION, WHICH ALLEY WAS VACATED BY COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA.

- 1. SEE NEXT SHEET FOR DRAWING EXHIBIT.
- 2. UNLESS NOTED NO PHYSICAL EVIDENCE OF POSSESSION WAS FOUND

I HEREBY CERTIFY TO THE PARTIES NAMED ABOVE THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY SUPERVISION ON THE DATE INDICATED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT CONFORMS WITH THE REQUIREMENTS CONTAINED IN SECTION 27 THROUGH 29 OF 365 IAC 1-12 FOR A SURVEYOR LOCATION REPORT.



SURVEYORS SIGNATURE

JEFFREY J. KANDY
PROFESSIONAL LAND SURVEYOR NO. 20100068

SEE REVERSE SIDE OF SHEET ONE FOR MINIMUM REQUIREMENTS AND NOTICE

SURVEYOR LOCATION REPORT

(THIS IS NOT A SURVEY)

PREPARED FOR:

Julie Stewart
398 E. Jefferson Street
Franklin, IN 46131

NO SCALE

COVER BY:

CLK

PROPERTY ADDRESS:

383 E. Madison Street
Franklin, IN 46131

JOB No.

100144

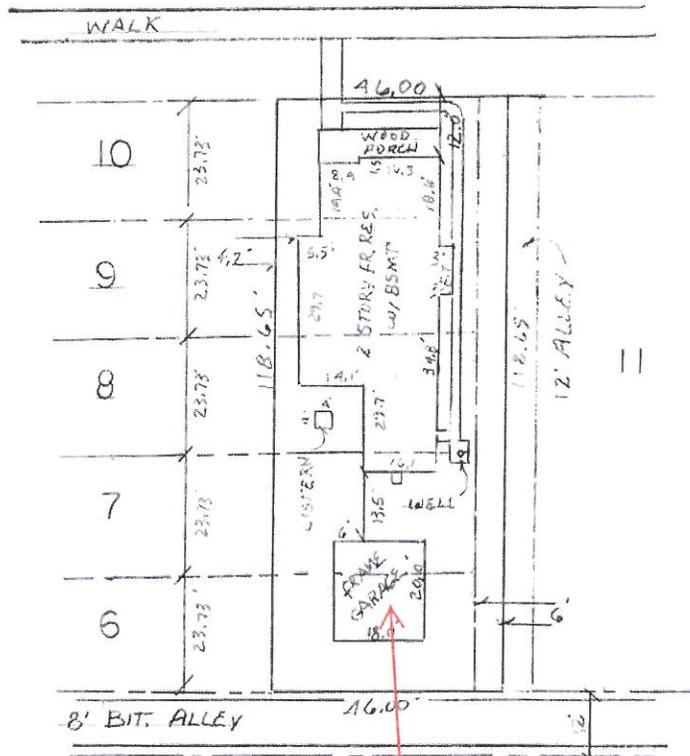
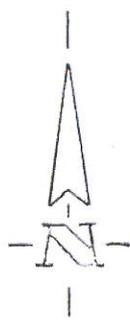
DATE: April 15, 2010

SHEET 1 OF 2



301 E. Jefferson Street - Franklin, Indiana 46131
 Phone (317) 736-0781 - Fax (317) 736-0791

MADISON STREET



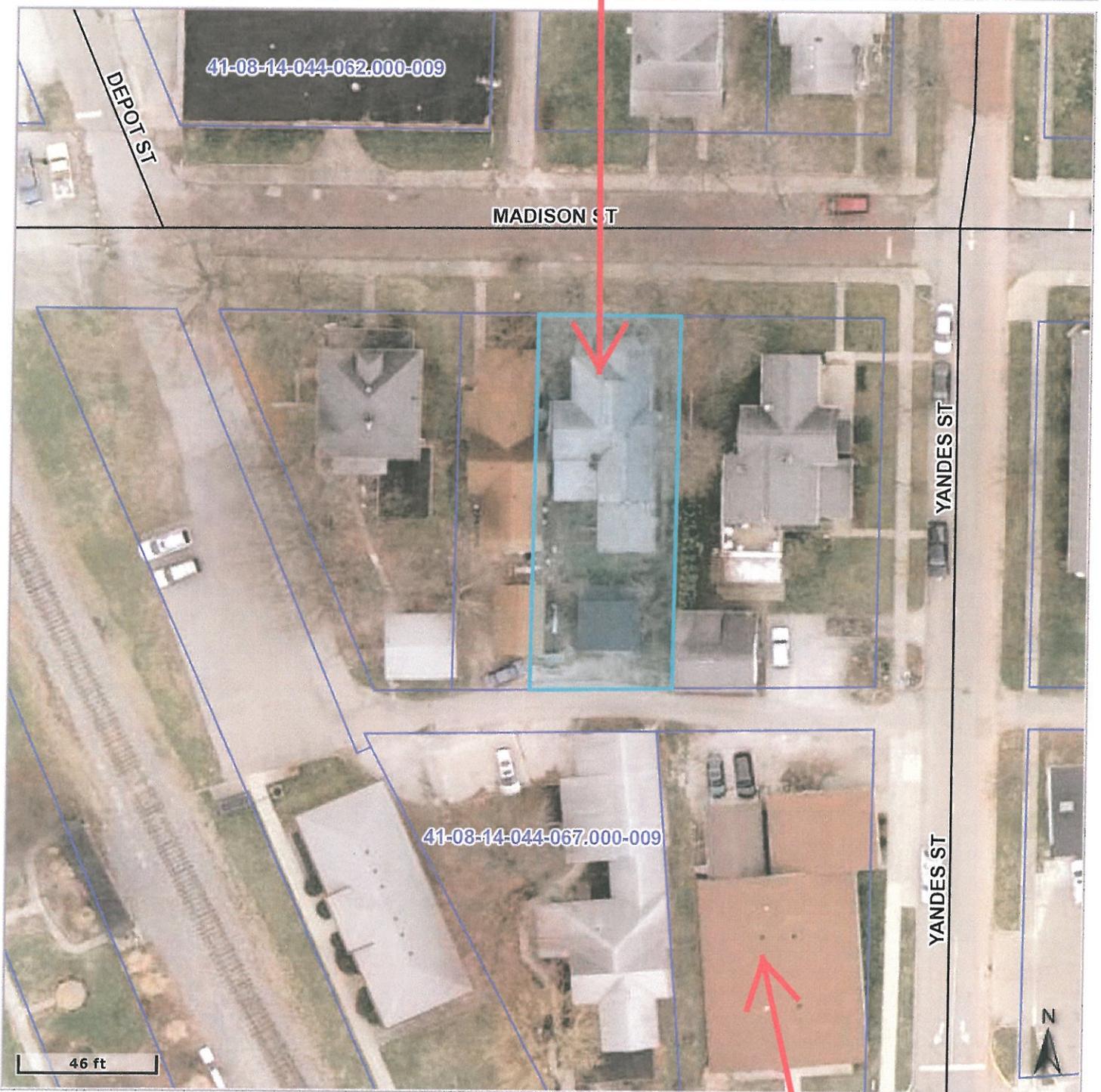
Garage to be removed for parking spaces

PART OF LOTS 6, 7, 8, 9, & 10 IN ADD. NO. 6 FRANKLIN, INDIANA		Prepared For: JULIE STEWART	
Scale: 1" = 30'	Drawn By: JDC	Property Address: 383 E. MADISON ST.	Job Number: 100144
Date: 4/15/10	Sheet 2 of 2		

383 E. Madison

Subject Property
383 E Madison Street

Date Created: 8/12/2013

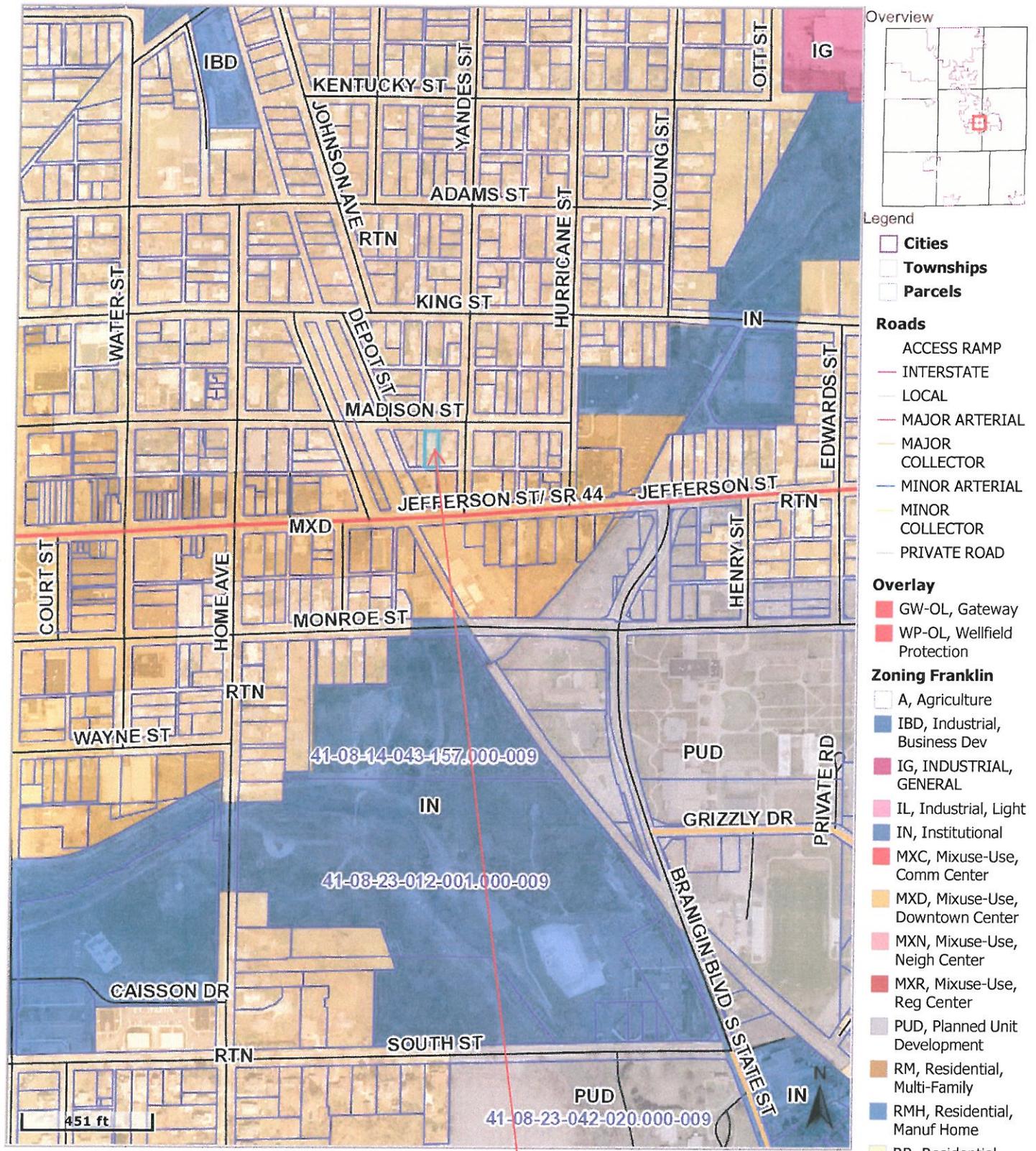


Parcel ID	41-08-14-044-068.000-009	Alternate ID	5100 14 34 048/00	Owner Address	STEWART JULIE & COMBS CHRISTINE 5214 W 150 N BARGERSVILLE, IN 46106
Sec/Twp/Rng	n/a	Class	Res 2 fam dwelling platted lot		
Property Address	383 E MADISON ST FRANKLIN	Acres	0.13		
District	009				
Brief Tax Description	HAMILTON #6 ADD PT LOT 6-7-8-9-10 (Note: Not to be used on legal documents)				

Salvage Sisters
398 E. Jefferson Street



Parcel ID	41-08-14-044-068.000-009	Alternate ID	398 E Jefferson	Owner Address	STEV CHRI
Sec/Twp/Rng	n/a	Class	Salvage Sisters		5214 PARC



Subject Parcel

Joanna Myers

From: TLC <tlcrealtors@gmail.com>
Sent: Monday, August 26, 2013 2:03 PM
To: Joanna Myers
Subject: Use variance for 383 E. Madison St.

RE: CASE NUMBER ZB 2013-12 (UV & V)

Joana & or the Secretary of the Board

My name is Tom Campbell, owner of the property at 399 E Madison St. which is adjacent to and located directly east of 383 E Madison ST.

I will be out of state on the 4th of September, thus I am submitting by Email my concerns.

I have the following concerns regarding the requested use variance.

Vehicle traffic - The alley way between the existing buisness and 399 is in my view congested enough. I believe it would be wise to take a close look at the traffic patterns that would evolve prior to the granting of any variance.

Pedestrian traffic - Should a variance be granted, I would request that a privacy fence be erected between 399 & 383 E. Madison St. so as to deter the public from using 399 E. Madison as an express route to 383. This is pertinent since, many of there customers today, use Yandeas St. for parking.

Your consideration of the above is appreciated.

Thank You

Thomas L. Campbell

Should there be a need for further discussion, I may be contacted at 812 350 0284.