



## 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](http://www.franklin.in.gov/planning)

# BZA Staff Report

**To:** Board of Zoning Appeals Members  
**From:** Joanna Myers, Senior Planner  
**Date:** August 23, 2013  
**Re:** Case ZB 2013-13 (V) Robert & Alexa Schofield

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### REQUEST:

**Case ZB 2013-13 (V)...99 E. Madison Street.** A request for a variance from the City of Franklin Zoning Ordinance Article 10, Chapter 4, to allow the expansion of a legal nonconforming residential use in the Mixed Use: Downtown Center (MXD) zoning district. The property is located at 99 E. Madison Street.

### PURPOSE OF STANDARD:

The "MXD," Mixed-Use: Downtown Center zoning district is intended to provide for the continued viability of the historic central business district. This district is also intended to accommodate and support the use of existing structures within the downtown. It is further intended to permit the continued, contextually appropriate development of the area through re-use and infill development.

### CONSIDERATIONS:

1. The petitioner is requesting a variance from developmental standards to expand an existing legal nonconforming residential use to allow the construction of a pool at 99 E. Madison Street. See attached site plan.
2. The property has historically been used as a residential property since the early 1900's when the residence was constructed. A detached garage has also been constructed with a concrete drive. See attached aerial.
3. The pool is proposed to be located south of the existing detached garage immediately adjacent to the petitioner's south property line. The petitioner is in the process of determining the exact location of the property line. The property owners to the south (Collins) have reached an agreement with the petitioner to transfer property to ensure that the pool is located on property the petitioner owns if it is determined that is necessary. The Collins' have signed an Affidavit & Consent Form, a copy is included in the file.
4. The minimum side yard setback in the MXD zoning district is 0 feet and maximum lot coverage allowed is 100%.
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. With the adoption of the current zoning map in 2004, the property was rezoned Mixed Use: Downtown Center, which does not list single-family residential uses as a permitted use.
7. 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.
8. 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.
9. 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."

The surrounding zoning and land uses are as follows:

**Surrounding Zoning:**

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

**Surrounding Land Use:**

North: Single Family Residential/Church  
 South: Single Family Residential  
 East: Single Family Residential  
 West: The Willard

**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 36-7-4-918.5) 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 variance will not be injurious to the public health, safety, morals or general welfare of the community as the construction of the pool will meet building code requirements.

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 approval of this variance will not have an adverse affect on adjacent properties as they are developed in a similar nature. In addition, the property owner to the south has reached an agreement with the petitioner to ensure that the location of the pool meets the setback requirements of the Zoning Ordinance.

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 result in a practical difficulty as the property has historically been used as a residential property and the conversion of the existing residence for uses consistent with the MXD land uses would prove difficult. In addition, the Comprehensive Plan identifies this area as a Core Residential area, which the proposed expansion as a residential use is consistent with.

**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 petition with the following conditions:

1. If it is determined that the pool would encroach on the property to the south, the transfer of property between the petitioner and south property owner, meeting the minimum setback requirement of the Zoning Ordinance, shall be recorded prior to obtaining an improvement location permit.
2. An improvement location permit shall be obtained prior to construction.

**(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.)

SITE PLAN  
(NOT TO SCALE)



Madison Street

Water Street

Alley

Artcraft

Garage

99 E  
Madison  
Street

Pool

Fence

Garage

60 N  
Water  
Street

Parking

Alley

Mutual Saving  
Bank

EKS



Parcel ID	41-08-14-043-045.000-009	Alternate ID	5100 14 33 108/00	Owner Address	SCHOFIELD ROBERT W & ALEXA D
Sec/Twp/Rng	n/a	Class	Res 2 fam dwelling platted lot		99 E MADISON ST
Property Address	99 E MADISON ST FRANKLIN	Acreage	0.23		FRANKLIN, IN 46131-2328
District	009				
Brief Tax Description	O P PT LOT 23				

(Note: Not to be used on legal documents)

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