



## 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:** Alex Getchell, AICP, Senior Planner

**Date:** April 30, 2021

**Re:** Cases ZB 2021-05 (V) | Timothy L Flynn | 2590 E 200 S

---

#### REQUESTS:

**Case ZB 2021-05 (V)...2590 E 200 S.** A request for consideration of development standards variances from the City of Franklin Zoning Ordinance, Article 7, Chapter 2, Height Standards, and Article 13, Chapter 2, Accessory Structures, to allow an accessory structure larger in area and height than the primary structure, in the A: Agricultural. The property is located at 2590 E 200 S, Franklin, IN 46131, and is located within the City of Franklin Extraterritorial “Buffer Zone” Zoning Jurisdiction.

#### PURPOSE OF STANDARD:

The “A”, Agricultural zoning district is intended to provide locations for agricultural operations and related land uses. This district is further intended to reduce conflicts between residential and agricultural areas with the viability of agricultural operations, and limit development in areas with minimal infrastructure. This district should be used to protect agricultural operations from land uses that are incompatible with the available infrastructure.

#### ZONING:

##### Surrounding Zoning:

North: A: Agriculture  
South: A: Agriculture  
East: A: Agriculture  
West: A: Agriculture

##### Surrounding Land Use:

North: Agriculture crop field  
South: Large Lot Residential  
East: Agriculture crop field  
West: Agriculture crop field, Large Lot Residential

#### CONSIDERATIONS:

1. Petitioner, Timothy L Flynn, is requesting approval to be allowed to construct an accessory structure that would be larger in area and height than the primary structure (residence) on their property. According to Assessor’s Office records, petitioner’s residence is listed as 2,399 sq. ft. The height of the residence is believed to be approximately 14 feet, based on Pictometry oblique aerial photography measurements. [See [Exhibit A: Pictometry “Bird’s Eye” Oblique images](#)]
2. Petitioner proposes a 40’ x 64’ (2,560 sq. ft.) expansion to an existing 1,280 sq. ft. detached garage structure on the property. The proposed structure would be 21’ in height with 14’ eave wall height and a 4/12 pitch roof. [See [Exhibit B: Building Plan](#) & [Exhibit C: Site Plan](#)]
3. Petitioner proposes and commits to using the structure for personal use, such as storage of trailers, antique vehicles and household equipment, and repair/work on personal antique vehicles. Petitioner states the reasons for the added building height are his desires an automobile lift to work on the antique vehicles and he wants to be able to pull taller trailers into the building. [See [Exhibit D: Petitioner Findings of Fact](#)]

4. The existing detached garage is setback approximately 20 feet from the east (side) property line and is considered to be a legal non-conforming structure, as the current zoning ordinance requires a minimum of 25 feet side yard setback for accessory structures in the A: Agriculture zoning district. The structure is permitted to expand, as long as the nonconformity (side setback distance) is not reduced any further.
5. Petitioner's property is currently separated into two parcels; however, petitioner has been informed they must combine the property into one legal description in order to obtain a building permit for the proposed structure, as the structure would cross properties lines, a situation not permitted by the City. If the Board finds evidence to approve the request(s), staff has proposed a condition of approval to require the petitioner to combine the properties prior to receiving Buffer Zone Compliance Certificate approval for the building permit.

#### **Accessory Structure Height**

6. According to Article 7, Chapter 2, Height Standards: "No accessory structure located in a single-family residential zoning district may exceed the height of the primary structure on the property."
7. The A: Agriculture zoning district is a single-family residential zoning district.
8. According to Article 7, Chapter 2, Measuring Height: "In all instances, the height of a structure shall be measured from grade level at the lowest point of the base of the structure to the highest point of the structure, excluding the necessary appurtenances listed in Section 7.2(B)(4).
9. Variance 1: *Petitioner is requesting a variance to allow an accessory structure to exceed the height of the primary structure; the proposed accessory structure would be 21 feet in height and the existing residence (primary structure) is approx. 14 feet in height.*

#### **Accessory Structure Area**

10. According to Article 13, Chapter 2, an Accessory Structure is: A structure that is subordinate to a primary structure in area, intent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the primary structure; does not alter or change the character of the property; and is located on the same lot as the primary structure.
11. Variance 2: *Petitioner is requesting a variance to allow an accessory structure to be greater in area than the primary structure. In this case, the proposed accessory structure would be 3,840 sq. ft. in total and 21 feet in height. The residence is 2,399 sq. ft. and approximately 14 feet in height.*
12. Petitioner has submitted written statements addressing the decision criteria for development standards variances, as it relates to the two requests. [See [Exhibit D: Petitioner Findings of Fact](#)]

#### **Comprehensive Plan & Zoning Ordinance**

13. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Agricultural. "Agriculture areas are generally located outside the current city limits in Franklin's extended zoning jurisdiction. Existing agriculture areas within the city limits are prime locations for new development, consistent with the future land use plan map. Agricultural areas are intended to include traditional farming uses, in addition to agricultural products storage and distribution facilities (such as commercial grain elevators), stables, natural preserves, agricultural research facilities, and other animal husbandry and food production related activities.."
14. 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.

15. 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.

#### **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 – 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:**

Staff finds the approval of the variance, with the proposed conditions of approval, will not be injurious to the public health, safety, and general welfare of the community. A structure of this size, with 14' clearance below trusses, and with an automobile lift, could attract incompatible commercial auto-repair users/uses, that otherwise would not seek out the property, when petitioner sells in the future. In the general vicinity along County Road 200 S, large accessory structures are common, residences are spread out on large lots, and agricultural fields are prevalent; approval of the requests will not be injurious to the general welfare with the recommended conditions of approval listed below.

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:**

Staff finds the approval of the variance, with the proposed conditions of approval, will not substantially affect the use and value of the adjacent properties. A structure of this size, with 14' clearance below trusses, and with an automobile lift, could attract incompatible commercial auto-repair users/uses, that otherwise would not seek out the property, when petitioner sells in the future. In the general vicinity along County Road 200 S, large accessory structures are common, residences are spread out on large lots, and agricultural fields are prevalent; approval of the requests will not be deleterious to adjacent properties with the recommended conditions of approval listed below.

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:**

Staff finds the strict application of the ordinance will result in practical difficulties related to the variance requests to allow the accessory structure to exceed the height and area of the primary structure (residence), as petitioner has a single-story home with a shallow pitch roof, petitioner's property is in a rural area with large-lot rural residential uses, including large accessory structures, and no neighbors in close proximity to the proposed structure. Albeit significantly larger than petitioner's residence, the proposed structure is similar in size to other accessory structures in the area.

#### **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

- - Continue on next page - -

## **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **approval** of the petition with the following conditions, a. through h.:

- a. Petitioners must record a new legal description combining their two properties into one tract, and must provide a copy of the recorded document from the Office of the Johnson County Recorder to the City of Franklin Planning Department prior to granting of a Buffer Zone Compliance Certificate approval.
- b. The use of the accessory structure is limited to permitted residential and agricultural uses as designated by the A: Agricultural Zoning district, only, which includes but is not limited to, personal use, uses that meet the standards of a home occupation (ZO Art. 7, Chpt. 7), personal storage, agricultural equipment storage, operable & inoperable vehicle storage of personally owned vehicles, operable & inoperable vehicle repair of personally owned vehicles, storage of personally owned recreational vehicles, utility trailers, boats, and travel-trailers, etc. This should not be interpreted as to allow residential dwelling(s) in the structure.
- c. Commercial or industrial use of the structure is prohibited.
- d. Limited to one automobile lift inside the structure.
- e. Storage of utility trailers, recreational vehicles, including boats and travel-trailers, outside of the proposed enclosed structure, must not exceed a total of 48 hours in any 1-week period.
- f. Outdoor storage of inoperable vehicles and/or vehicle parts is prohibited.
- g. The accessory structure must be constructed as depicted on the building & site plans submitted with this variance application.
- h. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.