



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, AICP, Senior Planner

Date: May 28, 2021

Re: Cases ZB 2021-09 (V) | Michael A. Graham | 129 Arvin Rd.

REQUESTS:

Case ZB 2021-09 (V)...129 Arvin Rd. A request for consideration of a development standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, to be allowed to place a fence in a required front yard setback, in the IBD: Industrial Business Development zoning district. The property is located at 129 Arvin Rd.

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.

ZONING:

Surrounding Zoning:

North: IG: Industrial, General
South: IBD: Industrial, Business Development
East: IG: Industrial, General
West: IBD: Industrial, Business Development

Surrounding Land Use:

North: Pidgeon & Clay; Busche Aluminum Tech.
South: Graham Street Mini-warehouse storage
East: IBC Advanced Alloys
West: Single-family Residential

CONSIDERATIONS:

Variance Request

1. Michael “Andy” Graham, Petitioner, resident of an existing single-family home at 129 Arvin Road, which was constructed in 1964, prior to the current zoning map and standards. The property is now zoned IBD: Industrial Business Development, and single-family uses are not permitted; therefore, the use is considered a legal non-conforming use.
2. Petitioner, is requesting approval to install a privacy fence setback 20 feet along the front property line abutting Arvin Road. The property has historically been screened by a dense line of vegetation along Arvin Road; however, the vegetation was located under power lines, and the power company recently clear-cut the vegetation to protect their lines in the future.
3. Petitioner proposes a privacy fence six (6) feet in height for a 72’ section to screen their parking area. Petitioner proposes a privacy fence three and a half feet in height for the remaining length of the property along the north property line, east of the driveway (approximately 400’), which abuts the right-of-way of Arvin Rd. [[Exhibit A: Proposed Fence Map](#)]

Fence & Setback Standards

4. According to Article 7, Chapter 15, Non-Residential Fence, Hedge, & Wall Standards, Fences shall not exceed 8 feet in height and shall be prohibited in any required front yard setback. Industrial uses are permitted to utilize electrified, barbed wire, razor wire, and stockade fences.
5. According to the Comprehensive Plan, Future Thoroughfare Plan Map, Arvin Road is designated a "Major Collector" street.
6. According to Article 3, Chapter 21, Industrial: Business Development Lot Standards, the minimum required front yard setback for a property with a frontage adjacent to a Collector Street is 50 feet.
7. Per City policy, fences are permitted to be placed within drainage and utility easements; the City recommends against fences in easements, but the City does not prohibit them, as long as they are not obstructing drainage or damaging to the utilities.
8. Variance Request: *Petitioner is proposing to construct a fence with a setback of twenty (20) feet, instead of fifty (50) feet, which would be six (6) feet in height and three-and-a-half (3.5) feet in height along the north property line, east of the driveway.*

Comprehensive Plan & Zoning Ordinance

9. The 2013 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."
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. 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:

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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 proposed variance, to allow a fence to be setback twenty feet along Arvin Road, will not be injurious to the public health, safety or general welfare of the community, as the subject legal nonconforming residential property is almost completely surrounded by industrial uses and is located along a major collector street. Moreover, the proposed location of the fence was previously a dense vegetative screen and approval of this request will not crowd, obstruct, or create a safety issue with the overhead utility lines, as the proposed fence will be setback twenty feet from the front property line and overhead utility lines.

- 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 that the use and value of adjacent properties will not be affected in a substantially adverse manner, as adjacent properties located along Arvin Road are industrial users, and the proposed fence will not crowd, obstruct vehicular mobility or visibility, nor create any safety issue related to the use of adjacent properties. Moreover, petitioner's request for twenty feet setback, instead of fifty feet setback, will not have any meaningful impact on adjacent property values.

- 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 a practical difficulty in the use of the property, as a dense vegetative screen previously occupied the area where petitioners are proposing the fence to be located. The vegetative screen was removed by the utility company in order to protect their lines in the future; the replacement of the vegetative screen with a privacy fence setback twenty feet from the right-of-way and utility lines is a practical and safe proposal that allows petitioners to re-establish privacy and security along the major collector street.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- a. A fence six (6) feet in height shall be permitted no closer than 20 feet to the north property line of 129 Arvin Road, and is limited to a maximum of seventy-two (72) feet in length, starting east of the existing driveway and running parallel with Arvin Road, toward the east. The remaining length of the fence line is permitted a maximum of three-and-a-half (3.5) feet in height, no closer than 20 feet to the north property line, running parallel with Arvin Road and terminating at the east property line.
- b. Approval is limited to a wood, or similar material, privacy fence line running in an east-west direction and presenting the non-structural face to the north for the width of the subject property east of the existing driveway.
- c. Chainlink, chainlink with slats, wrought-iron, or similar non-opaque fence types are not included in the fence variance approval.
- d. Approval does not supersede the rights of utilities and/or easement holders along the north end of the subject property.