

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

July 7, 2021

Members Present

Jim Martin
Phil Barrow
Charlotte Sullivan
Brian Alsip

Chairman
Vice Chairman
Secretary
Member

Members Absent

Ashley Zarse

Member

Others Present

Alex Getchell
Lynn Gray

Senior Planner I
Legal Counsel

Call to Order

Jim Martin called the meeting to order at 6:00 pm.

Roll Call & Determination of Quorum

Approval of Minutes

Phil Barrow made a motion to approve the minutes of June 2, 2021. Charlotte Sullivan seconded. The motion passed unanimously, 4-0.

Swearing In

Ms. Gray swore en masse anyone planning to speak.

Old Business

None.

New Business

ZB 2021-12 (UV/V) – 28 N Crowell St. – Alex Getchell introduced this use variance and developmental standards variance by Christine Chung. The property is zoned RTN (Residential: Traditional Neighborhood) and the Comprehensive Plan calls for the area to be Core Residential. Across the alley to the south of the property the Comprehensive Plan calls for the area to be Downtown Uses. The use variance is to allow for an auto-oriented use, in this case medium scale auto repair or body shop. The developmental standards variance is to allow fewer parking spaces for a use permitted by use variance. In this case the number of required parking spaces is greater than the petitioner can provide. The property is located approximately a half of a block north of Jefferson Street, just west of the railroad tracks. There is enough room on the property for four parking spaces. The variance request is for a reduction from 15 parking spaces to four.

Petitioner Christine Chung presented. She stated it's not consistent with the Comprehensive Plan for Core Residential. She gave an overview of the building's build and use history. There is no sewage line, only gas, electric and a basic water pump. She stated hazardous waste is removed. Though zoned residential, it is not possible for the building to be residential. They do not intend to have inoperable vehicles parked outside, in either public parking or on the property, and they only employ one mechanic.

Ms. Chung reviewed the use variance decision criteria:

General Welfare: She stated they will work by appointment only which will keep traffic to a minimum.
Adjacent Property: She stated they are not proposing any changes to the building. It has always been a commercial use.

Peculiar Situation: She stated there is no room for additional parking on the property. They don't plan to use the public parking along the railroad tracks. There are the four parking spaces outside the garage and they will keep customer cars being worked on inside the garage.

Unnecessary Hardship: She stated the premises are not suited for a residential property. It has always been a commercial property.

Comprehensive Plan: Ms. Chung read staff's statement from the staff report, concurring with what was presented there.

Ms. Chung continued with review of the development standards variance decision criteria:

General Welfare: Ms. Chung stated outside of one residential property, all surrounding properties are commercial. No negatively impactful activities will happen at the site.

Adjacent Property: They agree to staff's commitments with regards to parking and noise, so there shouldn't be any adverse affects on adjacent properties.

Practical Difficulty: She stated the building has always been an industrial/commercial use since its construction in the 70's, even though it is in a residential area.

Mr. Martin opened the public hearing. Rob Shilts, owner and operator of Madison Street Salvage, spoke in support of the petition. The public hearing was closed.

Ms. Gray asked if the petitioner commits to the condition of only one mechanic. Ms. Chung confirmed. Mr. Alsip asked if this extended to independent contractors as well. Ms. Gray responded in the affirmative.

Mr. Getchell presented staff's recommendation for the use variance that if the board finds sufficient evidence for approval, staff would recommend the following conditions be attached to the approval:

- a. Use variance approval is for auto-oriented use (medium scale: auto repair & body shop) and is limited to and runs with the applicant, Christine R. Chung, with one on-site employee or independent contractor, at the subject property, 28 N Crowell St.
- b. All applicable Federal, State, and Local permits/approvals shall be obtained prior to construction activity, including but not limited to: State Construction Design Release, Local Building & Sign Permits, etc.
- c. State Design Release for a Change of Use, from the Indiana Department of Homeland Security – Building Plan Review Branch, and all required conditions of approval must be approved and completed prior to operation of the auto repair use on-site.

- d. While the use variance remains active and in effect on the property, it shall be the only use permitted on the property.
- e. All work is to be scheduled and completed by appointment only and all work must be completed inside the building.
- f. A maximum of four (4) qualifying parking spaces are permitted on the exterior of the building; one (1) of which must be ADA compliant; all others must be a minimum of 9' x 18'. Qualifying parking spaces must be provided on a hard surface (asphalt or concrete only) on the exterior of the building, and the spaces must be striped with appropriate pavement markings. Crushed stone or gravel is not a qualifying parking surface.
- g. Vehicles are prohibited from parking outdoors on-site if not in a qualifying parking space.
- h. Vehicles to be maintained and/or repaired will not be stored in public parking spaces.
- i. Inoperable vehicles, whether by physical status (mechanical, electrical, flat tire(s), accident, flood, etc) and/or legal status (proper licensing and registration, etc.), are expressly prohibited from being parked or stored on-site on the exterior of the building, and from being parked or stored in public parking spaces. Inoperable vehicles must be stored inside the building at all times.
- j. Vehicle parts, body panels, fluids, accessories, tires, wheels, etc., whether new, damaged, or under refurbishment must be stored inside the building at all times.
- k. Hazardous waste shall not be permitted to accumulate, nor be stored in an unsafe manner on-site and must be removed by a qualified waste disposal company, regularly.
- l. Sound restriction: Except during the hours of seven a.m. and nine p.m., no sounds should be emitted from any motor vehicle, machinery, machine or device, power tools, and/or construction equipment located on the property, if the sound generated therefrom is clearly audible by another person at a distance of fifty (50) feet or more from the nearest property line of the property upon which the sound source is located.

With regards to condition f, Mr. Alsip asked if no parking spaces are required. Mr. Getchell explained citing a maximum allowance, due to the nature of the business, and the Board typically deals with minimums. At least one ADA compliant space would be required. Mr. Barrow asked if the building is air conditioned. Ms. Chung said no. Mr. Barrow followed up with how they would be able to keep the doors closed to buffer the sound without air conditioning. Ms. Chung explained that with fans running, the interior temperature is not bad even with the doors closed.

Ms. Chung agreed with staff's conditions. She asked what would be required if they were to add a second employee in the future. Ms. Gray responded that petitioner would be required to return to BZA to seek an amendment to their granted variance.

Mr. Alsip made a motion for approval of the use variance with the conditions as recommended. Ms. Sullivan seconded. The motion passed unanimously, 4-0.

Mr. Getchell stated staff's recommendation for the development standards variance is as outlined in the staff report, that if the Board finds evidence to support the decision criteria, staff recommends the followings five conditions be attached to the approval:

- a. All work is to be scheduled and completed by appointment only and all work must be completed inside the building.
- b. A maximum of four (4) qualifying parking spaces are permitted on the exterior of the building; one (1) of which must be ADA compliant; all others must be a minimum of 9' x 18'. Qualifying

parking spaces must be provided on a hard surface (asphalt or concrete only) on the exterior of the building, and the spaces must be striped with appropriate pavement markings. Crushed stone or gravel is not a qualifying parking surface.

- c. Vehicles are prohibited from parking outdoors on-site if not in a qualifying parking space.
- d. Vehicles to be maintained and/or repaired will not be stored in public parking spaces.
- e. Inoperable vehicles, whether by physical status (mechanical, electrical, flat tire(s), accident, flood, etc) and/or legal status (proper licensing and registration, etc.), are expressly prohibited from being parked or stored on-site on the exterior of the building, and from being parked or stored in public parking spaces. Inoperable vehicles must be stored inside the building at all times.

Ms. Chung agreed to staff's conditions.

Mr. Barrow made a motion for approval of the developmental standards variance request with the conditions as recommended. Ms. Sullivan seconded. Passed unanimously, 4-0.

ZB 2021-13 (UV/V) – Westview Village – Mr. Getchell introduced this use variance and developmental standards variance request at 1058 E State Road 144. It is behind the American Health Network on Commons Way between Westview and State Road 144. The request is from Wallick Asset Management. The property is zoned MXN (Mixed Use: Neighborhood Center) and the Comprehensive Plan calls for the area to be a neighborhood activity center. The petitioner is proposing a 64-unit, three-story retirement facility. The developmental standards variance request is for the height of the building to exceed the maximum permitted of 35 feet. The petitioner is requesting up to 50 feet. The proposed building will be L-shaped.

Joe Hall from Wallick Communities presented an overview of his organization. Wallick accomplishes their work through the state housing agency's rental tax credit program. They will submit a competitive funding application at the end of the month. Winning awards are issued in November. If Wallick wins an award, they plan to start construction a year from now. Construction is a 12-month period. They anticipate the building to be full and stabilized by the end of 2023. The development will sit on 5.6 acres. They propose a three-story senior congregate elevator building for residents 62 or older. There will be 52 one-bedroom and 12 two-bedroom units. Mr. Hall explained the way the rental tax credits work if they receive an award.

Mr. Hall addressed the decision criteria for the use variance:

General Welfare – He stated the property will be professionally designed, constructed, managed and owned.

Adjacent Property – He stated their build will be subject to design standards.

Peculiar Situation – Mr. Hall stated that “that is to be addressed because the property is of a certain size and the amount of units there arises to have that discussion.”

Unnecessary Hardship – He stated Wallick's proposed development wouldn't normally fit there, but there is argument to be made for it in some circumstances.

Comprehensive Plan – He stated it constitutes a gathering area and is within the realm of the Comprehensive Plan.

Chairman Martin opened a public hearing.

Jack Borsos remonstrated. He is concerned about where all the water will go, over the anticipated increased traffic, and concerned for their property values.

Erin Slevin expressed support for the project, representing the Bridges Alliance of Johnson County and as a Franklin resident. She presented statistics and an overview of positive factors for this development and the section of the community it will serve.

There being no further public comment, the public hearing was closed.

Mr. Barrow asked if Commons Way is a city street. Mr. Getchell confirmed it is. There was discussion as to whether the property was in the flood plain. Ms. Gray explained legally that the city could not consider construction if in the flood plain.

Mr. Hall reported that they will be using American Structurepoint to design the site, so the storm water management will be as good if not better than it is today. There will be an onsite detention pond. The site being purchased does not have a floodplain on it. Ms. Gray asked if in addition to renters being 62 and older, would occupants also be 62 and older. Mr. Hall confirmed that to be correct.

Mr. Getchell gave staff's recommendation for approval of the use variance, as outlined in the staff report with the following conditions:

- a. Use variance approval for a retirement facility use is limited to, and runs with Wallick Asset Management, LLC, at the subject property.
- b. Use variance approval for a retirement facility use is limited to 64 dwelling units.
- c. A minimum of two (2.0) off-street parking spaces are required to be provided for each dwelling unit on-site.
- d. A minimum of four (4) parking spaces are required to be provided for employees working on-site.
- e. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- f. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

The petitioner agreed to all conditions. Mr. Alsip asked with regards to an onsite cafeteria and cleaning crews. Mr. Hall identified there will be a common area with a kitchenette.

Mr. Alsip made a motion for approval of the use variance with the recommended conditions of approval. Mr. Barrow seconded. The motion passed unanimously, 4-0.

Mr. Hall addressed Wallick's developmental standards variance request for the increased height of the building. In order to construct a traditional, senior congregate, multi-family housing facility, Wallick proposed a pitched roof. This exceeds the allowable height limit. They anticipate the height will be 46 feet, but due to how potential grading could play out, they asked for 50 feet to allow a buffer. He reviewed the decision criteria.

General Welfare: He stated the roof is higher than what is allowed. They believe the request to be appropriate to insure the building looks as a traditional building should.

Adjacent Property: He stated it will be a brand new professionally designed and constructed and managed.

Practical Difficulty: He stated the height is greater than what is allowable.

Mr. Martin opened a public hearing. There were no respondents.

Mr. Getchell gave staff's recommendation for approval as outlined in the staff report, with the following two conditions.

- a. Maximum height of the structure: 50 feet.

- b. No portion of the building is permitted to exceed 35 feet in height, except uninhabitable areas of the sloped roof, with a pitch equal to or steeper than 6:12 pitch.

The petitioner accepted staff's conditions.

Mr. Barrow made a motion for approval of the developmental standards variance with two conditions. Ms. Sullivan seconded. The motion passed unanimously, 4-0.

ZB 2021-14 (V) – Franklin Cove Clubhouse – Mr. Getchell introduced this developmental standards variance request for the Franklin Cove clubhouse at 2015 Franklin Cove Court. The property is zoned RM (Residential: Multi-Family) and the Comprehensive Plan calls for the area to be a community activity center. The variance is to allow a reduction to the side yard setback for an expansion to the clubhouse building. Expansion on two parts of the building is planned. On the south, the expansion is just over 32 feet but will encroach approximately 30 feet in to the side yard setback requirement of 50 feet. The petitioner is withdrawing a request for a westward expansion. The expansion will still be done but in line with the building so the variance is not needed. Franklin Cove Apartments is off of Umbarger Lane and south of King Street. The south expansion will be in line with the apartments to the east of it. The Links project will be adjacent to the west and south. As proposed, that project will have one of its internal street running along the property line to the south of the clubhouse expansion. Ms. Gray asked if petitioner's withdrawal addressed sanitary sewer easement concerns, and Mr. Getchell confirmed that it did.

Mr. Joe Hall of Wallick Asset Management gave an overview of Wallick's involvement with Franklin Cove Apartments. They plan to apply for funding for preservation through the State. They propose a substantial renovation, putting six million dollars back into the project. Wallick has already invested approximately one million dollars in to the property with new roofs and windows and resolution of sidewalk issues. They are also working on the refurbishment of balconies. They plan to remodel all units with new flooring, kitchens, baths, new siding and brick refurbishment. They also plan a complete parking lot renovation. Security cameras will be placed throughout the property. Mr. Hall also offered their vision for a service representative on site after the clubhouse buildout. They plan to receive a funding award in November and to start the renovation at this time in 2022. There will be a total of 108 units, 60 for the elderly and 48 for general occupancy.

Mr. Hall reviewed the decision criteria.

General Welfare: He stated it will be an improvement for the community as they will be able to better engage with the residents and know their needs.

Adjacent Property: He stated bringing the property up to a more modernized state should not negatively affect adjacent properties.

Practical Difficulty: He stated it is encroaching on the setback requirement, so that creates the need for the variance request.

Chairman Martin opened the public hearing. There were no respondents. The public hearing was closed.

Ms. Gray asked if the application process is competitive bidding or if qualified, the funds are granted. Mr. Hall stated it to be competitive. There are usually approximately 50 annual applicants and 20 are typically issued. He believes they have a better than average chance of receiving funding. Mr. Alsip asked if the Franklin Cove is currently allocated for senior and general occupancy. Mr. Hall confirmed it is and will continue to operate in that manner. He stated it is HUD oversights so the allocations will stay as they are.

Mr. Getchell presented staff's recommendation for approval with the following three conditions:

- a. Approval is for a maximum of 32'-4" expansion to the south of the existing structure, as shown on the building plans submitted with this request.
- b. Building expansion is not permitted to encroach into a sanitary sewer, drainage & utility, nor any other type of easement on the property. If any portion of the approved expansions are shown to encroach into an easement, the expansion must be reduced accordingly, until all parts of the expansion are outside of any easements.
- c. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

Petitioner agreed to commitments.

Ms. Sullivan made a motion for approval with the three conditions as recommended by staff. Mr. Alsip seconded. The motion passed unanimously, 4-0.

Other Business

None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 4th day of August, 2021.

Jim Martin, Chairman

Charlotte Sullivan, Secretary