



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: March 31, 2023
Re: Cases ZB-23-1 (V) | 149 N Jackson St

REQUESTS:

Case ZB-23-1 (V)...149 N Jackson St. A petition by Sheila Ingle for a Developmental Standards Variance from the City of Franklin Zoning Ordinance Article 7, Chapter 10, Parking Standards, to allow a driveway for the property, where there would be backing and maneuvering in the public street. The subject property is located within the MXD: Mixed-use, Downtown Center zoning district and is classified as a legal non-conforming use. Properties in the MXD district are not permitted to have parking that requires vehicles to back into, or maneuver in public streets.

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.

Parking Standards: The purpose of these parking standards is to reduce street congestion, ensure proper vehicular and pedestrian circulation, and therefore improve public safety by identifying the appropriate number and location of off-street parking spaces for each zoning district.

ZONING:

Surrounding Zoning:

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

Surrounding Land Use:

North: Single-family Residential
South: Mixed-use, Commercial/Residential
East: Single-family Residential
West: Single-family Residential

CONSIDERATIONS:

Current & Proposed Use

1. Sheila Ingle, Petitioner, owns and lives at the subject property, 149 N Jackson St. The property is small, being 49 feet wide and 50 feet deep to the rear, and is immediately adjacent to a public alley on the north.
2. Petitioner's house occupies most of the property, extending from the front to the back, and up to the alley along the north. There is a narrow yard along the south side of the property, believed to be approximately ten to twelve feet in width.
3. Petitioner's residence was established prior to zoning (1930). The property is now zoned MXD: Mixed-use, Downtown Center, and single-family residential uses are not permitted; therefore, the use is considered a legal non-conforming use.
4. Petitioner desires a driveway to park her vehicle(s), as public parking on the street has become difficult with the success of businesses downtown & has resulted in her having to park blocks away from her home.

5. The MXD district doesn't extend any farther north, than Petitioner's property; from immediately north of petitioner's property, to where N. Jackson Street terminates at Herriott Street, properties are all zoned RTN: Residential Traditional Neighborhood.
6. Since Petitioner's property is located within a Mixed-use zoning district, the non-residential parking standards apply to the property. See below.

Access/Location Requirements

7. According to Article 7, Chapter 10, Part 3, Access/Location Requirements for Mixed Use, Institutional, and Industrial zoning districts, "parking areas must be designed to prevent vehicles from having to back into, or maneuver in public streets (access to alleys shall be exempt from this requirement)."
8. Variance Request: *Petitioner wishes to construct a driveway which will directly connect to Jackson Street. Since vehicles would be backing into and/or maneuvering within the public street from a mixed-use zoned property, a variance is sought. Petitioners intend to construct a driveway approximately 10 feet in width, extending to the back of the property.*



Comprehensive Plan & Zoning Ordinance

9. The 2013 Comprehensive Plan, Future Land Use Map, identifies this area as Downtown. "Future land use in the downtown area should support the function of the area as a unique focal point and gathering place for the Franklin community. Downtown Franklin should serve the City as a dynamic activity center that includes retailers, professional offices, residences, civic groups, government facilities, restaurants and bars, and service providers. Future land uses in the downtown should contribute to the establishment of an activity center with a mix of land uses which enhance the current community character that the downtown provides."
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:

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 proposed variance will not be injurious to the public health, safety, morals, or general welfare of the community, as petitioners' property, albeit, located within the MXD zoning district, is located on a block where a single-family residential driveway legally connects directly to the street. Moreover, N Jackson Street is one-way vehicular traffic (northbound) on petitioner's block and on the block north of it; with it being one-way traffic, the potential conflicts of backing and maneuvering in the street are significantly reduced. Furthermore, from petitioner's property, to Herriott Street to the north, N Jackson Street is solely a residential street, with residential zoning and uses. Therefore, approval will not be injurious to the general welfare.

- 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 proposed variance will not adversely affect the use and value of adjacent properties, as it will allow petitioner to park her vehicle(s) on her own property, instead of on the street or other public parking areas in the general vicinity. An increase in public parking availability should benefit the use and value of the area adjacent to the property.

- 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 terms of the ordinance will result in practical difficulties at the subject property, as Petitioners' property does not currently have a driveway and it is not possible to add a driveway that connects to the alley, nor is it possible to construct a driveway where vehicles are not backing and maneuvering in the public street. Moreover, although it is a legal nonconforming single-family use in a mixed-use zoning district, from petitioner's property up to Herriott Street (4.5 blocks), all properties are residential in nature and zoned for single-family residential, and other residential driveways exist along this stretch of Jackson Street.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- a. All applicable permits and approvals shall be obtained prior to placement/construction of the driveway, including but not limited to a Right-of-Way Permit.
- b. The driveway must be paved with asphalt or concrete.