



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: April 27, 2023
Re: Case ZB-23-5 (SE & V) Kenneth Austin

REQUEST:

Case ZB-23-5 (SE & V)...1481 E. Jefferson St. A request by Kenneth Austin for a Special Exception Use from the City of Franklin Zoning Ordinance, Article 7, Chapter 3 to allow an accessory dwelling use in the RSN, Residential, Suburban Neighborhood zoning district, and a Developmental Standards Variances from the City of Franklin Zoning Ordinance, Article 7, Chapter 3, to allow the accessory dwelling to be located on the ground floor of a detached accessory building. The property is located at 1481 E. Jefferson St.

PURPOSE OF STANDARD:

The “RSN”, Residential: Suburban Neighborhood zoning district is intended to ensure the continued viability of suburban-style lots in existence on the effective date of this Ordinance. This district should only be used to maintain established setbacks and standards in suburban neighborhoods.

ZONING:

Surrounding Zoning:

North: RSN: Residential, Suburban Neighborhood
South: RSN: Residential, Suburban Neighborhood
East: RSN: Residential, Suburban Neighborhood
West: RSN: Residential, Suburban Neighborhood

Surrounding Land Use:

North: Single-family Residential; Multi-family Res.
South: Single-family Residential
East: Single-family Residential
West: Single-family Residential

CONSIDERATIONS:

1. The subject property of 1481 E. Jefferson St. has an existing single-family residential home and detached storage shed structure in the rear. The property is approximately 0.34 acres in size.
2. Petitioner, Kenneth Austin, is proposing a pool house and inground swimming pool to be located south of the existing residence, in the back yard. The pool house would be 512 sq. ft. in total, with ~466 square feet of living area with one full bathroom and an open kitchenette/living area.
[See [Exhibit A: Site & Building Plans](#)]

Special Exception – Accessory Dwelling

3. Article 13.2 defines Dwelling, Accessory as “A separate and complete secondary dwelling unit established in conjunction with and clearly subordinate to another dwelling that which serves as the primary use and/or structure on the property.”
4. Article 7.3 of the Zoning Ordinance limits accessory dwellings to 1,000 square feet and under.
5. The proposed accessory structure would have ~466 sq. ft. of living area, and 512 total square feet.

6. *Petitioner's proposal meets the definition of an Accessory Dwelling, as the detached structure is proposed with ability to prepare foods, bathe, and approximately 466 sq. ft. of living space in total. Entry to the structure is separate from—and the use is clearly subordinate to—the primary residence.*
7. Accessory dwelling units are listed as a special exception in the following zoning districts: RSN (Residential: Suburban Neighborhood), RS-1 (Residential: Suburban One), RS-2 (Residential: Suburban Two), RS-3 (Residential: Suburban Three), and RTN (Residential: Traditional Neighborhood).
8. Accessory dwelling units are a permitted use in the following zoning districts: RR (Residential: Rural), RT-1 (Residential: Traditional One), RT-2 (Residential: Traditional Two), and RT-3 (Residential: Traditional Three).
9. Special Exception: *Petitioner is proposing a dwelling (pool house) less than 1000 sq. ft. of living area and in a detached structure; therefore, petitioner requests a Special Exception use approval, from the Accessory Use Standards, to allow an accessory dwelling use in the RSN zoning district.*

Developmental Standards Variance

10. Article 7.3 of the Zoning Ordinance requires accessory dwellings to be (a) attached to, and designed and constructed as part of the primary structure, or (b) located above a detached garage or workshop.
11. Variance: Since Petitioner's proposal for a pool house meets the definition of an accessory dwelling, the pool house must meet all standards for accessory dwellings. As such: *Petitioner is proposing the accessory dwelling (pool house) be located on the ground floor of a detached accessory structure; therefore, petitioner requests approval of a development standards variance to allow the accessory dwelling (pool house) to be located on the ground floor of a detached accessory structure.*

Parking Standards

12. According to Article 7.10 of the Zoning Ordinance, Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.
13. According to Article 7.10 of the Zoning Ordinance, a minimum of 2 off-street parking spaces are required for each dwelling unit.
14. All required parking spaces must be designed to provide direct access for vehicles. In no case may areas which do not have direct access be considered a parking space meeting the requirements of this Ordinance (example: a residential driveway shall not be considered a parking space meeting the requirements of this Chapter if a parked vehicle in the driveway prevents direct access to a required parking space in a garage or carport).
15. A minimum of four (4) off-street parking spaces would be required in the district in which it is located. Two dwelling units = 4 spaces in RSN district.

Comprehensive Plan & Zoning Ordinance

16. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Large-Lot Suburban Residential. "Large-lot suburban residential areas are intended to include primarily single family detached residences. Other uses in large-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from small-lot suburban residential areas by their comparatively larger lot size and setbacks and lower density. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood."

17. 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.
18. Article 11, Chapter 4 states “Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be invalid if (1) the property conforms with the Ordinance as written, or (2) the special exception approval is terminated (consistent with Section 2.5(L)).”
19. Article 11, Chapter 4 states “A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special exception.”

CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Article 11.4 of the Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

DECISION CRITERIA – SPECIAL EXCEPTION

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 special exception will not be injurious to the public health, safety, or general welfare of the community, as there is sufficient off-street parking provided and the proposed accessory dwelling (pool house) would be approximately 500 sq. ft. with no dedicated bedroom. The proposal technically meets the definition of an accessory dwelling, and is larger than the industry standard of a “tiny home,” but the petitioner states it will be used as a pool house and not as a separate dwelling. Therefore, staff finds approval, with conditions a. through e., will not be injurious to the general welfare.

2. ***Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.***

Staff Finding:

The proposal will meet the development standards for parking, setbacks, and limitation on size for accessory dwellings; however, a developmental standards variance will be required to allow the dwelling to be located on the ground floor of a detached garage.

3. ***Ordinance Intent: Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.***

Staff Finding:

The requested use is listed as a special exception under the RSN zoning district regulations and the property is surrounded by other residential properties and uses. Moreover, petitioner states the use will be that of a pool house and not a separate dwelling; therefore, staff finds approval, with conditions a. through e., will not be contrary to the general purposes of the Zoning Ordinance, nor permanently injure other properties or uses.

4. ***Comprehensive Plan: The granting of the variance (will or will not) be consistent with the character of the zoning district in which it is located, and (will or will not) be consistent with the Franklin Comprehensive Plan.***

Staff Finding:

The granting of the special exception does not interfere with the Comprehensive Plan as it states: “also encouraged is the occasional incorporation of accessory residences.”

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of an approval.

STAFF RECOMMENDATION – SPECIAL EXCEPTION

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

- a. Special Exception approval is for a single accessory dwelling unit (to be used as a pool house) and runs with the subject property.
- b. The accessory dwelling (pool house) shall not be offered for short or long term rental.
- c. Expansions to the accessory dwelling unit living area square footage shall be prohibited beyond 512 square feet.
- d. A minimum of three off-street paved parking spaces are required to be provided on-site.
- e. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

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 VARIANCE

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 allowing the accessory dwelling (to be used as a pool house) on the ground floor of the proposed detached structure will not affect the general welfare any more than if it were constructed above a garage on a second level, or attached to the primary structure.

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 use and value of the adjacent properties will not be affected in a substantially adverse manner, as a single-story detached accessory dwelling (to be used as a pool house) would likely have lesser impact on neighboring properties than a two-story detached structure. Petitioner could attach the accessory dwelling to the residence, but not being attached to the residence does not rise to the level of a substantially adverse impact, as petitioner is proposing for the structure to be located within twelve feet of the residence, separated only by a hot tub.

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 petitioner is proposing a structure they deem to be a pool house, and to be used in tandem with a planned inground pool. Strictly requiring the space to be located on the second story would not be practical for use with a pool. Moreover, petitioner's residence, the primary structure on the property, is a single-story in height; the zoning ordinance prohibits accessory structures from being taller than the primary structure. As a result, either option would require variance approval; petitioner has proposed what staff believes is the more practical option. Therefore, the strict application of the terms of the Zoning Ordinance will result in practical difficulties for the subject property.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE

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

- a. Variance approval is for a single accessory dwelling unit (to be used as a pool house) on the ground floor of the detached accessory structure that is 32' x 16' in size.
- b. The accessory dwelling (pool house) shall not be offered for short or long term rental.
- c. Expansions to the accessory dwelling unit living area square footage shall be prohibited beyond 512 square feet.
- d. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.