

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

October 2, 2024

Members Present

Jim Martin
Bill Carson
Clayton Black
Clinton Nalley

Chairman
Vice Chairman
Secretary
Member

Not Present

Others Present

Lynn Gray
Alex Getchell

Legal Counsel
Senior Planner I

Call to Order

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

Roll Call & Determination of Quorum

Senior Planner Alex Getchell reported that Joe Abban tendered his resignation from the Board last month.

Approval of Minutes

Bill Carson made a motion to approve the September 4, 2024 minutes. Clayton Nalley seconded. The motion passed unanimously, 4-0.

Swearing In

Legal Counsel Lynn Gray swore en masse anyone planning to speak.

Approval of 2025 BZA Calendar of Meeting Dates

Mr. Carson made a motion for approval. Clayton Black seconded. Passed unanimously, 4-0.

Old Business

New Business

ZB-24-6 (V) – Franklin Jewelers – Mr. Getchell introduced this developmental standards variance request. The property is located at 98 W. Madison Street. The subject property is on the corner of Madison and Jackson Streets. The request is for a public art mural on the west side wall of the building. It is the single-story portion of the building along Jackson Street. The summary of the three requested variances is to allow a mural to be painted on the west facing, exterior wall, approximately 10' tall and

30' in width, and for the mural to be permitted in addition to the signage allowance for the property. He stated the last variance request is staff's recommendation to make things easier to regulate the signage going forward. He stated, it is standard for staff to recommend to those wanting murals to request for the mural to be in addition to their signage allowance. The actual variances from the ordinance are to exceed the maximum number of signs, to exceed the maximum area of a wall sign and for the maximum total area of signage. He stated a professional artist has been or will be contracted to complete the work. Murals are a sub-type of a wall sign. As such they must be regulated the same as a sign, due to both being considered content. Local government is prohibited from regulating based on content. Therefore, staff always requests of the petitioner to not include the mural content, so the BZA avoids any perception of bias toward approval or denial based on the content. The Board is only to review based on location, size and the manner in which the mural is placed on the building. This mural will be painted on to the building. Given BZA's history with mural requests, staff has developed a standard set of recommended conditions for approval. One is to go before the Public Art Advisory Commission for approval. With BZA approval, PAAC has the ability to review content. Mr. Getchell also highlighted a support letter received from Attorney James Admire earlier today entered in to the record as an exhibit. The property is zoned MXD (Mixed Use: Downtown Center) and the Comprehensive Plan calls for Downtown Uses.

Attorney Gray further explained that though a government entity cannot regulate some speech content, they are permitted to regulate that which involves nudity, suggestive poses, hate speech or imagery that any group might find obscene or morally shocking.

Petitioner Josh Shanafelt is the owner of Franklin Jewelers. Mr. Shanafelt, along with his wife, are longtime Franklin residents. They love the downtown and want to add to the beauty and charm Franklin already possesses. He addressed the decision criteria, stating his full agreement with staff's narrative in the staff report.

1. General Welfare – It will be a professional mural by a local artist that has already provided murals to the downtown area, previously.
2. Adjacent Property – The petitioner shared the mural content and placement with the property owners. All expressed complete support.
3. Practical Difficulty – Petitioner agreed with staff again that the strict application of the ordinance would prevent the entire project. They look forward to making this contribution to the downtown arts district, in which they are located.

Ms. Gray instructed that the same decision criteria can be used for all the variance requests. Mr. Martin opened a public hearing. Being no respondents, the hearing was closed. There were no questions from the Board. Mr. Getchell gave staff's recommendation for approval with conditions, as outlined in the staff report:

- a. Approval is limited to the west façade block wall (approximately 10' height by 30' width) as depicted in petitioner's submittal with this request.
- b. The mural must receive approval from the City of Franklin Public Art Advisory Commission prior to obtaining a sign permit, and prior to starting work on the painting of the mural.
- c. All revisions to the design of the mural, and all future mural designs must be reviewed by the Franklin Public Art Advisory Commission prior to starting work on the painting of the mural.
- d. Designs must not include nudity, suggestive poses, hate speech or imagery that any group might find obscene, offensive or morally shocking.
- e. The mural must be maintained in accordance with the Franklin Public Art Advisory Commission's approval, stated guidelines and design criteria, for the life of the mural, including all future mural designs.
- f. The mural must be completed within ninety (90) days of the start of painting.

- g. Mural content must remain unchanged, except for complete or partial removal, or repair of damaged or faded paint for a minimum of three (3) years.
- h. The mural must be painted directly on the building surfaces using exterior paint and a protective graffiti block clear-coat.
- i. Lighting of the mural must comply with the Exterior Lighting Standards in the Zoning Ordinance, Article 7, Chapter 18, specifically for Lighting of Building Façades.

The petitioner agreed to all conditions, and stated the only lighting that might be installed would be ambient, gooseneck lighting over their existing sign or landscape up lighting, within the ordinance regulations.

Mr. Carson made a motion for approval with staff recommended conditions. Mr. Black seconded. Passed unanimously, 4-0.

ZB-24-7 (V) – 348 E Monroe Street – Mr. Getchell introduced these two developmental standards variance requests. The property is a couple houses east of Crowell Street on the north side of Monroe. It is across the street a little from the Provence Park entrance off Monroe Street. On the east side of the property is a public alley running north and south, extending between Monroe and Jefferson Streets. The petitioner is proposing a two-car, detached garage to be located on the east side of the house between the house and public alley. Due to the area available and site conditions, they requested two variances related to side and rear yard setbacks. The east side of the property is considered a side yard. The north property line is considered a rear yard. The side yard request is for a four foot setback instead of five, and from the north line a three foot setback instead of five feet. The garage will be 20' by 22' deep. They have removed an existing deck and will remove an existing shed. The overhead doors are proposed to face south. The driveway would come south of that and connect to the alley. There would be no connection directly on to Monroe Street nor any backing out of the garage directly into the alley. There is currently no off-street parking on the property. The area is likely going to get busier with the arrival of Iozzo's, so there will be a higher demand for on street and dedicated parking. The property is zoned RTN (Residential: Traditional Neighborhood) and the Comprehensive Plan calls for the area to be Core Residential. The variance requests are in order to be able to get in and out of the garage with its proximity to the alley. The roof will be 4/12 pitch with no proposed living area.

Petitioner Shane Kemper addressed the decision criteria.

- 1. General Welfare – Petitioner would like to be able to get his cars off the street and allow more parking for his neighbors, especially with the opening of Iozzo's.
- 2. Adjacent Property – There is an alley directly beside the property. Behind the property is a business parking lot. With the removal of a privacy fence, he will have a more accessible mowing strip
- 3. Practical Difficulty – There is no other place to place a two-car garage on the property. He tried to place it to look best with the house. It will be landscaped.

Mr. Martin opened a public hearing. There were no respondents. The hearing was closed. Ms. Gray added that side and rear yard setbacks are also for the purpose of public health and safety. The Board had no additional questions.

Mr. Getchell gave staff's recommendation for approval with three conditions.

- a. The garage must be oriented with the overhead door(s) facing south.
- b. Driveway must be hard surface, either asphalt, concrete or pavers.
- c. All applicable local permits/approvals are required; including, but not limited to an Improvement Location Permit ("Building Permit") for the construction of the garage.

Petitioner concurred with staff's recommended conditions. Mr. Kemper desires to eventually remove the front, concrete steps and replace with granite. He would like to run pavers from the stairs to the driveway, so inquired as to whether the driveway could potentially be pavers. Mr. Getchell stated that pavers could be added to the condition as an option, along with asphalt or concrete.

Ms. Gray sought clarification that no plumbing was to be included in the plan. Petitioner assured that to be true.

Mr. Carson made a motion for approval with staff conditions. Mr. Nalley seconded. Passed unanimously, 4-0.

Other Business

Adjournment:

There being no further business, a motion to adjourn was made by Mr. Carson and seconded by Mr. Black for adjournment. Passed unanimously, 4-0.

Respectfully submitted this 6th day of November, 2024.

Jim Martin, Chairman

Clayton Black, Secretary