



City of Franklin

Department of Planning & Economic Development

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MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

February 6, 2008

Members Present:

Richard Pfifer	Chairman
Barbara Wilham	Vice - Chairman
Tim Holmes	Secretary
Phil Barrow	Member
Rev. Richard Martin	Member

Others Present:

Joanna Myers	Senior Planner
Lynn Gray	Legal Counsel
Julie Parsley	Recording Secretary

Call to Order:

Richard Pfifer called the meeting to order at 7:00 p.m.

Approval of Minutes:

On a motion by Tim Holmes and a second by Barbara Wilham, the members voted unanimously to approve the minutes from the November 7, 2007, December 5, 2007 and the January 9, 2008 minutes.

Joanna Myers stated that Case ZB 2008-02 (UV)...Wayne & Angel Miller had notified staff prior to the meeting that they intended to request a continuance. Mrs. Myers requested that the Board move their petition to the beginning of the agenda due to the number of interested parties that were in attendance for the hearing.

On a motion by Tim Holmes and a second by Phil Barrow, the members voted unanimously to move Case ZB 2008-02 (UV)...Wayne & Angel Miller to the beginning of the agenda.

Case ZB 2008 - 02 (UV)...Wayne & Angel Miller:

Wayne Miller requested a continuance until the next regularly scheduled meeting due to a scheduling conflict with their legal counsel.

On a motion by Tim Holmes and a second by Richard Martin, the members voted unanimously to continue the petition until the March 5, 2008 meeting.

Old Business:

Case ZB 2007 – 24 (V)...Premier Ag:

Joanna Myers stated that the petition was a request for a developmental standards variance to allow an encroachment of the rear and side yard setbacks in an Industrial: General (IG) zoning district. Mrs. Myers stated that the variance is needed to allow a 32' x 54' building to be constructed 15' from the west and south property lines. Joanna Myers stated that the minimum required setback in this zoning district is 50'. Mrs. Myers provided an amended site plan for the members to reflect this proposal. Joanna Myers stated that a waiver for the public notification requirements would be required because certified letters were mailed instead of the required certificate of mailing.

On a motion by Barbara Wilham and a second by Richard Martin, the members voted unanimously to approve the waiver for public notification.

Larry Geese, representative and Burke Admire, Manager of Premier Ag, presented the petition. Mr. Geese stated that the proposed building for all practical purposes cannot be seen from the street. Larry Geese stated that this proposal was first presented to staff with the structure placed on the lot line. Mr. Geese stated that proposal was intended to serve as a much needed buffering from the property immediately west of Premier Ag. Larry Geese stated that the structure would be open-faced to the east and would be used only as "cold" storage for their trucks and equipment. Mr. Geese stated that due to the location of the existing scales if the structure was constructed following the required setbacks there would not be sufficient room for maneuverability of the vehicles. Larry Geese stated for that reason he believed a practical difficulty existed. Mr. Geese stated that he had spoken to the surrounding property owners and did not have any opposition to the proposal. Larry Geese stated that he disagreed with the staff report and said that he didn't see any way that the placement of the proposed structure would adversely affect the property to the west.

Joanna Myers stated that the staff report was written based on the original submittal depicting the placement of the proposed structure on the property line. Joanna Myers stated that staff recommended a minimum 20' setback from the west and south property line.

Larry Geese stated that even a 20' setback on the west property line would impede the use of the scales. Mr. Geese stated that the south setback of 20' had been proposed to address neighbor's concerns. Larry Geese stated that the most critical setback would be the west property line and reiterated their need for the 15' setback.

Joanna Myers stated that staff amended their recommendation to state that if the Board finds sufficient evidence to approve the variance, staff would recommend the follow conditions be placed upon the approval:

1. A minimum 20-foot setback from the west and south property lines.
2. To receive approval from the Technical Review Committee and City Engineer prior to construction of the facility.

Richard Pfifer questioned if a commitment had been made regarding the placement of fencing along the property line.

Larry Geese stated that there would be a chain-link fence on the north and south sides of the structure.

Joanna Myers asked for clarification of the fencing placement and maintenance of the property between the building/fencing and the property line to the west.

Larry Geese stated that Premier Ag would place the fencing along the north and south property lines and it would not connect to the building. Mr. Geese stated that Premier Ag would maintain any area between the building and fence.

Tim Holmes stated that he agreed with Premier Ag's proposal for 15' from the property lines due to the placement of the fencing. Mr. Holmes stated that the space between the building and fencing would only be wasted space.

Richard Martin asked the petitioner if the structure would still be constructed if the Board supported staff's proposed 20' setback.

Mr. Geese stated that he could not guarantee that the structure would still be constructed if the 20' setback was required. Larry Geese stated that it would take away from the required space needed for semis or motor homes to use the scales. Mr. Geese stated that there is a fuel tank located next to the scales and for safety reasons it would be better to locate the structure further west.

Action taken on Case ZB 2007 – 24 (V)...Premier Ag:

On a motion by Tim Holmes and a second by Phil Barrow, the members voted unanimously to approve the petition with the following conditions:

1. A minimum 15-foot setback from the west and south property lines.
2. Fencing to be erected and maintained on the west and south property lines.
3. To receive approval from the Technical Review Committee and City Engineer prior to construction of the facility.

Case ZB 2007-26 (V)...Blue Chip Corp.:

Joanna Myers stated that the property was located at 550 International Drive. Mrs. Myers stated that the petition is a request for a developmental standards variance to allow the encroachment of the rear and side yard setbacks in an Industrial: General zoning district. Joanna Myers stated that the variance is needed to allow the construction of an 18,000 sq. ft. building. Mrs. Myers stated that this subdivision was platted in 2001 under a previous ordinance and at that time the setbacks were a 20' side and 25' rear setback.

Steve Williams, Franklin Engineering, presented the petition. Mr. Williams stated that Mr. Bemis was not in attendance due to illness. Mr. Williams stated that as staff had previously mentioned this subdivision had been platted under a previous ordinance and the surrounding buildings all meet those 20' side and 25' rear setback requirements. Steve Williams stated that staff had recommended a 20' setback from the east and west, 30' setback from the north, and a 50' setback from the south. Mr. Williams stated that the petitioner would comply with staff's recommendations regarding the setbacks. Steve Williams addressed the state criteria as follows:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Mr. Williams stated that these were the required setbacks at the time the subdivision was platted and all surrounding properties were developed under those requirements.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Mr. Williams reiterated that these were the required setbacks at the time the subdivision was platted and all surrounding properties were developed under those requirements.
3. The strict application of the terms of the ordinance will result in a practical difficulty in the use of the property. Mr. Williams stated that the lot design of the subdivision was based upon the development standards in place at the time it was platted. Steve Williams stated that the larger setbacks required by the new zoning ordinance would be too limiting for a lot of this size.

Joanna Myers stated that staff recommended approval with the following conditions:

1. A minimum 20-foot setback from the east and west property lines.
2. A minimum 30-foot setback from the north property line.
3. A minimum 50-foot setback from the south property line.

Steve Williams stated that the petitioner concurred with staff's recommendations.

Action taken on Case ZB 2007-26 (V)...Blue Chip Corp.:

On a motion by Barbara Wilham and a second by Richard Martin, the members voted unanimously to approve the petition with the following conditions:

1. A minimum 20-foot setback from the east and west property lines.
2. A minimum 30-foot setback from the north property line.
3. A minimum 50-foot setback from the south property line.

New Business:

Case ZB 2008-01 (V)...Franklin Community School Corporation:

Joanna Myers stated that the property was located at 625 Grizzly Cub Drive. Mrs. Myers stated that the request was for a developmental standards variance to allow the construction of a 17 foot high sign in an Institutional (IN) and Gateway Overlay (GW-OL) zoning district. Joanna Myers stated that the request included a variance to allow the sign area to be 208.25 square feet. Mrs. Myers stated that the Institutional zoning district allows for a 6 foot tall sign with a maximum sign area of 32 square feet. Joanna Myers stated that the sign area is based on the area around the sign area only which would include the electronic message board and any channel letters that would be placed on the gable. Mrs. Myers stated that the actual square footage of the sign may be less than what the petitioner requested due to the fact that they included the overall structure square footage in their request.

Roger Young, representative, presented the petition. Mr. Young stated that Dr. Patterson, Superintendent of the Franklin School Corporation and Pam Millikan, Principal of Custer Baker were in attendance. Roger Young stated that Don Claffey, Gibraltar Architects, and Bill Doty, Franklin School Corporation were also in attendance. Mr. Young provided photos of computer imposed renderings of the proposed signage at their requested sizes versus how it would appear if it were constructed to meet the ordinance requirements. Roger Young stated that using the correct formula to calculate the signage area the request for the variance should be for 64.50 square feet in area and 9 feet in height. Mr. Young stated that he received a copy of staff's recommendations and they concur with those findings. Roger Young addressed the state criteria as follows:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Mr. Young stated that the proposed location of the sign meets minimum setback requirements and is located outside the sight visibility triangle. Roger Young stated that this signage would promote the general welfare of the community by providing school and community information by way of the message board.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The approval of the variance will not affect the adjacent properties in a substantially adverse manner as surrounding uses have existing freestanding signs similar in nature. Mr. Young stated that the presented photos depict the similar existing signage for the surrounding area.

3. The strict application of the terms of the ordinance will result in a practical difficulty in the use of the property. Roger Young stated that a practical difficulty in the use of the property does exist as the difference in grade between the site and Morton Street (approximately 4 feet) could impair the visibility of a 6' tall freestanding sign. Mr. Young stated that the width of U.S. 31 and the setback distance of the sign from the traveled portion of the highway would make a smaller sign very difficult to see.

Mr. Young stated that the petitioner would be willing to comply with all of staff's recommendations in the event an approval is granted.

Joanna Myers stated that the ordinance reads that the height of signage is measured from the natural ground level to the top of any support or structure.

Roger Young stated that he misunderstood the report and thought that it was measured only by the sign component itself. Mr. Young stated that they may not be able to comply with staff's recommendation regarding the sign height.

Joanna Myers clarified the petitioner's request as a variance from the 6' requirement with a proposed 17 foot high sign and a variance from the 32' sign area to 64.5 square feet.

Discussion was held regarding the height of surrounding signage.

Joanna Myers stated that Institutional zoning allows for a 6 foot high sign. Mrs. Myers stated that the MXC zoning which is immediately west of this property would allow an 8 foot high sign. Joanna Myers stated that a multi-tenant sign could be 25 feet in height in the MXC zoning district.

Phil Barrow questioned the difference in grade between the site and Morton Street and the size of the message board.

Roger Young stated that he felt that the larger sign and height would be more in line with the business size. Mr. Young stated that there is a 4' difference in the grade between their site and U S 31. Mr. Young stated that reducing the height of the sign would impair the visibility of the message board.

Tim Holmes questioned the height of the new sign for the high school.

Phil Barrow stated that he felt that the high school sign along U S 31 is difficult to read.

Don Claffey, Gibraltar Designs, stated that this proposed sign was designed to be similar to the signage located at Custer Baker Middle School to match the similar architectural style. Mr. Claffey stated that it was also approximately the same size. Don Claffey stated that this proposed sign would be located a greater distance from the street and at a lower grade.

Joanna Myers stated that the High School's sign located along U S 31 is 13' 3" in height and is at grade. Mrs. Myers stated that staff recommended approval of the petition with the following conditions:

1. Obtain a sign permit prior to the installation of the sign.
2. Sign is not to exceed 17 feet in height from natural grade.
3. Sign is not to exceed 70 square feet in area.
4. Sign is to be located a minimum of 10 feet from public right-of-way and located outside of the sight visibility triangle.
5. The electronic message board to be monochromatic.

Lynn Gray stated that these recommendations were different from those provided in the staff report, but were reflective of the petitioner's requests and compromises from tonight's hearing.

Action taken on Case ZB 2008-01 (V)...Franklin Community School Corporation:

On a motion by Richard Martin and a second by Barbara Wilham, the members voted unanimously to approve the petition with the following conditions:

1. Obtain a sign permit prior to the installation of the sign.
2. Sign is not to exceed 17 feet in height from natural grade.
3. Sign is not to exceed 70 square feet in area.
4. Sign is to be located a minimum of 10 feet from public right-of-way and located outside of the sight visibility triangle.
5. The electronic message board to be monochromatic.

Case ZB 2008-03 (V)...East King Street Convenience Center:

Joanna Myers stated that the petition was a request for the following six variances from developmental standards:

1. To exceed the maximum lot coverage from 75% to 87% and a reduction of the front setback along the west side of the property to allow the construction of an enclosed dumpster.
2. To grant a variance from requiring a pedestrian walkway consisting of different pavers to connect the sidewalk thru the vehicle travel areas to the building.
3. A reduction in the required number of parking spaces from 48 to 41.
4. To allow a variance from the minimum entrance separation for all four entrances.
5. To allow a reduction in the parking lot perimeter landscape area on the east side from 10' to 8' and along the south side to allow the landscape area to be completely within the right-of-way.
6. To allow a variance from the maximum sign height in order to use the existing 80' tall sign tower.

Mrs. Myers stated that the property was located at 2120 E. King Street and is zoned Mixed Use: Regional Center (MXR) and Gateway Overlay (GW-OL).

Jerry Wiggins, representative, presented the petition. Mr. Wiggins stated that they anticipate having the convenience center structure containing the convenience center and two restaurants. Jerry Wiggins stated that they would be required to have 48 parking spaces with the plans that they have submitted. Mr. Wiggins stated that this would mean that a variance for seven parking spaces would be required. Jerry Wiggins stated that the property is a very small lot with an existing gas station that has been vacant for quite some time. Mr. Wiggins stated that any existing structures will be removed. Jerry Wiggins stated that in order to make any project work the maximum lot coverage would have to be increased. Mr. Wiggins stated that if they constructed the required pedestrian walkway they would lose an additional parking space and create issues with constructing a drive-thru for a restaurant. Jerry Wiggins stated that it was impossible to meet the requirements regarding separation of entrances due to the location of all of the existing drives. Mr. Wiggins stated that in regards to the perimeter landscaping on the east side it needed to be reduced to 8' to accommodate the drive thru area for the gas pumps. Jerry Wiggins stated that landscaping on the south side would be installed within the right-of-way and an 8' pedestrian walkway will be installed. Mr. Wiggins stated that the petitioner is proposing to use the existing 80' sign tower in order to construct a multi-tenant sign for the three businesses. Jerry Wiggins stated that each business sign would be an additional 4' in height creating a total sign height of 92'. Mr. Wiggins stated that the existing sign for Burger King is 97' in height, the McDonald's sign 96' in height, and the BP sign across the street is 79' in height. Jerry Wiggins stated that signage for several other businesses in the area exceed the height required by the ordinance. Mr. Wiggins stated that in order to remain competitive and attract customers from the interstate that the additional sign height would be necessary.

Phil Barrow questioned if the multi-tenant signage requirements allowed for any greater height.

Joanna Myers stated that the MXR zoning district allowed for a maximum of 25' in height.

Lynn Gray stated that the interstate creates a unique challenge in regards to the allowable sign height, but our ordinance differentiates by zoning district and not roadway.

Joanna Myers stated that areas along the interstate also have the ability to use the state exit informational signage.

Reverend Martin questioned why the petitioner was proposing to have three businesses on one lot.

Greg Hillan, General Contractor, stated that with the initial land and developmental costs it would be very difficult to return the investment with a two-unit building.

Jerry Wiggins addressed the state criteria as follows:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Mr. Wiggins stated that the surrounding businesses have existing signage that is very similar in height to their proposal.
3. The strict application of the terms of the ordinance will not result in a practical difficulty in the use of the property.

Joanna Myers stated that staff recommended approval of the following variances:

1. Article 3, Chapter 19 (Maximum lot coverage & front setback)
2. Article 5, Chapter 4 (Pedestrian walkway)
3. Article 7, Chapter 10 (Required number of parking spaces)
4. Article 7, Chapter 12 (Minimum entrance separation)
5. Article 7, Chapter 16 (Parking lot perimeter landscape area)

Joanna Myers stated that staff recommended denial of the following variance:

6. Article 8, Chapter 3 (Sign height) based on staff findings that the strict application of the ordinance does not result in a practical difficulty as the petitioner may install a freestanding sign at this location that meets the standards outlined in the ordinance. In addition, the existing sign tower should have been removed at the time the Shell frame was removed per ordinance regulations.

Joanna Myers stated that when a new ordinance is adopted that the only way to bring signage into compliance with the existing standards is to enforce the regulations. Mrs. Myers stated that if the Board would continue to grant variances of this nature then there would not be any intended changes. Joanna Myers stated that this area has been identified as a gateway or entrance into the City. Mrs. Myers stated that the tall signs would not be within the "planning vision" of an entrance to a special city.

Tim Holmes stated that he is not in favor of the proposed 92' sign height, but would be willing to listen to a new proposal for a lesser sign height. Mr. Holmes stated that he was fully aware of the fact that this area is unique due to the proximity of the interstate.

Action taken on Case ZB 2008-03 (V)...East King Street Convenience Center:

On a motion by Phil Barrow and a second by Tim Holmes, the members voted unanimously to approve variance requests #1 - 5 with the following condition:

1. An 8-foot asphalt walk and jogging path be provided within the right-of-way of King Street, consistent with the submitted site plan.

On a motion by Barbara Wilham and a second by Phil Barrow, the members voted unanimously to deny variance request #6 for failure to meet state criteria # 3.

Other Business:

2008 Calendar of Meeting Dates – Revised (April):

Joanna Myers stated that a modification had been made to the April meeting date due to the conflict with spring break. Mrs. Myers stated that the meeting date had been moved to April 9, 2008.

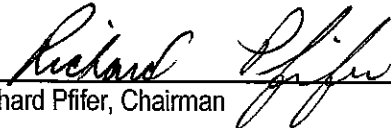
On a motion by Phil Barrow and a second by Barbara Wilham, the members voted unanimously to approve the revised 2008 BZA Calendar.

Joanna Myers stated that the members had been provided with copies of slides from a presentation of a Purdue video seminar that was televised across the state. Mrs. Myers stated that the seminar was televised at the local Extension Office in the Oren Wright building. Joanna Myers stated that the Indiana Chapter of the American Planning Association provides training classes for Plan Commission and BZA members and asked for members to contact her if anyone would be interested in attending. Mrs. Myers offered her assistance in additional training regarding any state criteria requirements or procedural questions.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 5th day of March 2008.


Richard Pfifer, Chairman


Tim Holmes, Secretary