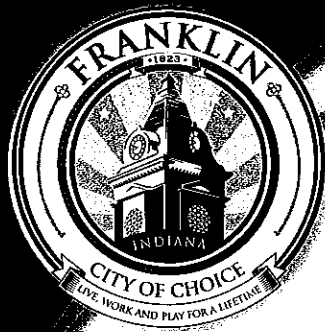




CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT · DEPARTMENT OF ENGINEERING

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

April 7, 2010

Members Present:

Richard Pfifer	Chairman
Bob Swinehamer	Vice Chairman
Tim Holmes	Secretary
Phil Barrow	Member

Members Absent:

Rev. Richard Martin	Member
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Others Present:

Joanna Myers	Senior Planner
Lynn Gray	Legal Counsel
Jaime Harshman	Recording Secretary

Call to Order:

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

Approval of Minutes:

Phil Barrow made a motion to approve the March 2010 minutes as presented. Bob Swinehamer seconded the motion and the members voted unanimously to approve the minutes.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

ZB 2010-01 (V): JR Promotions, LLC – Billboard:

Joanna Myers stated that the Petitioner has withdrawn their request.

ZB 2010-03 (V): Key Bank:

The Petitioner requested to continue the case to the May 5th, 2010 meeting. This is an automatic continuance. The case has been continued.

New Business:

ZB 2010-04 (V): Humane Society of Johnson County:

Ms. Myers stated the petition is for a developmental standards variance to allow the construction of an addition to the south side of the existing structure. The property is located at 3825 and 3827 N. Graham Road. It is located in the Agricultural zoning district and also is located in the city's buffer zone. The variance is needed as the minimum side yard setback for a primary structure in the agricultural zoning district is 50 feet. With the proposed addition, the setback will be 39 feet which results in an 11 foot encroachment.

Harold Crooks, executive director of the Humane Society, stated that the Humane Society is planning to remodel the Logeland horse barn. He stated the property will be used as a shelter for dogs. The variance is needed for the area on the south side of the building for a dog kennel area. Outdoor runs for the dogs are planned in this area. He stated the area will have a covered roof to keep water from running into the septic system.

Mr. Crooks stated the west side of the property faces Graham Road which is the main entrance and soon to be a parking area. He stated the east side of the building is where the septic system is located and they do not want to pave over it in any manner. There is a residential neighbor to the north side of the property. He stated the neighbor has no objection to the variance. Mr. Crooks stated that the Humane Society's current office space is within the northwest corner of the building. He stated behind the office space is an apartment where Mr. Logeland resides. He stated the purchase agreement for the Humane Society gives Mr. Logeland the right to reside in the apartment as long as he chooses. He stated the only side left to put the dog runs on is the south side of the building.

Mr. Crooks stated the general welfare will not be harmed by the dog run being 11 feet closer to the property line. He stated the property south of where the dog run is planned is a 5.6 acre field that is also owned by Mr. Logeland. Mr. Crooks stated that Mr. Logeland had no objection to the request for a variance.

Mr. Crooks stated that the adjacent property will not be affected in an adverse manner as it is owned by Mr. Logeland and he is fully aware of the intentions.

Mr. Crooks stated the practical difficulty is that they wouldn't be able to construct the dog runs for the dog kennels if the minimum side yard setback is required. Jerry Hornbeck stated that the point of the whole structure is to allow the dogs to have exercise and allow the dogs to run outside. Mr. Crooks stated that if there are not outside runs, then the Humane Society will need more personnel to walk the

dogs. He noted that most of the staff is volunteers and getting volunteers to exercise the dogs on a regular basis would be difficult.

A copy of the Humane Society floor plan layout was entered as Exhibit "A".

Mr. Pfifer stated that the Staff Report inquired why the dog run could not be constructed on the remaining 5 acres located to the east. He asked Mr. Crooks to address the issue. Mr. Hornbeck stated that there is a huge septic field and land that is going to be used for phase 2 of the Humane Society project to the east.

Tim Holmes questioned if the 12 feet addition will be the outdoor run and kennels. Mr. Crooks stated they will be the dog runs only. Mr. Hornbeck stated that the only thing there now is the old horse stalls that will be turned into kennels. Mr. Crooks stated that the dividing walls in the runs will be 4 feet high and there will be chain link above that and chain link doors. The outside runs will be made so they can be cleaned with water. He stated the water will run into the septic system.

Ms. Myers stated that Staff would recommend approval.

Action taken on ZB 2010-04 (V): Humane Society of Johnson County:

Tim Holmes made a motion to approve the variance as presented. Phil Barrow seconded the motion. The case was approved by a unanimous vote.

ZB 2010-05 (SE & V): Second Missionary Baptist Church:

Ms. Myers stated the petition is for a special exception to allow the operation of a church in the Residential Traditional Neighborhood zoning district. She stated there is also a request for a developmental standards variance for reduction of the required number of parking spaces. The special exception is needed as churches are not permitted uses and are outlined as special exceptions in the ordinance.

Terry Lancer, RQAW Engineers, stated that the project is located at the southwest corner of Madison Street and West Street. He stated the existing Second Missionary Baptist Church is located on the northwest corner of the intersection and has been there since 1892. He stated that most members walk to the church on Sunday and a van brings in people as well. The existing church is not handicap accessible.

Mr. Lancer stated the church members desire to develop a new facility that is accessible to all members of the church. The church owns the property on the lot south of the current church location on Madison Street. They plan to build a single-story structure with the restrooms and classrooms all on one floor. Mr. Lancer stated that some of the historic features seen on the existing building such as the tall windows and brick materials will also be used with the construction of the new building.

Mr. Lancer stated the property will have a landscaped buffer with evergreens for the neighbors to the south and full landscaped buffer to the north of the parking lot. The existing street trees along the street would be protected. New trees will be planted along the east boundary.

Mr. Lancer stated the variance will not be injurious to the general welfare of the community. He stated that as the church is in a residential neighborhood it will hopefully improve the morals and general welfare of the community. Concerning safety, there is an entrance to the parking lot off of the alley, not

from the main road (Madison Street). He stated the entrance is setback from Madison Street so cars are not pulling out on the thoroughfare. Mr. Lancer stated the church desires to stay within the neighborhood. The church would like to stay in the community which will allow people to walk to church on Sunday mornings. He stated that all the parking at the current facility is on the street. The new facility would provide parking spaces to get cars off the street and into the lot. He stated that there would not be simultaneous functions at the old and new church buildings. He stated that the comprehensive plan is consistent with the zoning and district.

Mr. Lancer stated that the adjacent property will not be affected in an adverse manner. The church will have a complete landscaping package and try to be good neighbors. He stated that it will improve the neighborhood appearance.

Mr. Lancer stated that it is the desire of the Second Missionary Baptist Church to stay in the existing neighborhood. He stated that they purchased the property across the street as there is not a lot of extra property to purchase in area. After purchasing the lot, the church tried to see how many new parking spaces could fit on the property. He stated they did have a full 16 parking space lot, but it shrank the size of the building such that they could not accommodate all of the programming needs of the church. He stated they have worked with the Planning Department to arrange parking and the building to accommodate the church's needs. The practical difficulty is trying to maintain a community church in the neighborhood. The closest available property was purchased and as much parking as possible will be provided on the lot.

Terry Behr, 50 West Street, stated she is concerned with the parking. She stated that as the church grows they are going to require more parking. She stated that the parking lot is adjacent to her property and is concerned that parishioners will park on her property. She stated the entrance to the church is going to be on the alley and it is going to be easier for people to park there on Sundays & Wednesdays.

Rev. French, Second Missionary Baptist Church, stated that they would make sure that people wouldn't park anywhere that isn't designated parking for the church or public parking. He stated they would do whatever is necessary to keep the neighborhood sound and respect their rights.

Janet McDuffy, member of Second Missionary Baptist Church, stated that she has talked to some of the older members of the church that can't get to church because of the restrooms being downstairs in the current building. She stated they are elated that they have gotten this far with the process of trying to have a new church. She stated that they would be willing to work with Ms. Behr and make sure her property is not being used for parking.

Mr. Swinehamer questioned what the existing building would be used for once the new building has been built. Mr. Lancer stated that it would be used for church meetings and community use. He stated there are no plans to change the current use of the facility. Mr. Swinehamer stated that he believes the construction of the new building will be an improvement because it adds 10 parking spaces that weren't there before.

Ms. Myers stated that the Staff recommends approval with conditions.

1. A minimum of 10 parking spaces 10'x20' shall be provided onsite. Two of which shall be handicap accessible.

2. All other requirements outlined in Article 7: Development Standards and Article 9: Site Development Plans applicable to Institutional (IN) zoned properties, with the exception of Article 7.17 - Part 1: Buffer Yard Requirements, shall apply to the development of the subject property.

Action taken on ZB 2010-05 (SE & V): Second Missionary Baptist Church:

Phil Barrow made a motion to approve the special exception and variance with the conditions outlined by Staff:

1. A minimum of 10 parking spaces 10'x20' shall be provided onsite. Two of which shall be handicap accessible.
2. All other requirements outlined in Article 7: Development Standards and Article 9: Site Development Plans applicable to Institutional (IN) zoned properties, with the exception of Article 7.17 - Part 1: Buffer Yard Requirements, shall apply to the development of the subject property.

Bob Swinehamer seconded the motion. The motion was approved unanimously.

ZB 2010-06 (V): Franklin Church of Christ:

Ms. Myers stated that the petition is for a developmental standards variance to allow the placement of an electronic message board on the top of an existing non-conforming sign resulting in a 10 foot high, 113 square foot freestanding sign. The property is located in the Mixed Use: Community Center and Gateway Overlay zoning districts. The property is located at 3600 N. Morton Street. The variance is needed as electronic message boards are not allowed by ordinance and also in reference to expanding the non-conformity of an existing non-conforming sign.

Bob Oliver, member of Franklin Church of Christ, stated they are applying for a variance for an electronic sign. Ms. Gray noted that the petitioner submitted Exhibit "A" in four parts.

Amy Lamb, member of the church, stated that the church is community centered, the largest youth soccer program in the county is offered by the church. She stated there are other programs for youth, adults and seniors and the church is a voting site as well. Ms. Lamb stated with so much being offered, they'd like to be able to share the activities with the community in a more effective manner. She stated that a lot of people don't know where the church is located despite having two existing signs. She stated their request is to add an electronic sign to the top of their existing sign, bringing it to 10 feet tall.

Ms. Lamb stated their request will not affect the general welfare of the community. She stated because of the vastness of programming available, some which happen at the same time, it is important that the church be able to display that. They have used yard signs and temporary signs in the past. Ms. Lamb stated that it would look more professional with the electronic sign. She stated that the current sign sits below the grade of the road, making it challenging for the sign to be seen. The sign is more than 40 feet away from the white line along US 31 so there are no issues with right-of-way.

Ms. Lamb stated that adjacent properties will not be affected in an adverse manner. All of the neighboring properties are zoned for business and the church shares a driveway with a couple of them.

She stated the sign may actually help the neighboring businesses to have a reference point when they are directing people to their place of business.

Ms. Lamb stated there will be a practical difficulty in not having the electronic sign. She stated that it is the mission of the church to reach out to the community and using this kind of signage will help do that. Ms. Lamb stated there is a church member that is willing to purchase the sign. She stated that with the temporary signs, time and labor costs add up over time. The addition of the electronic sign will save members of the church both time and money. She stated that the sign will give them improved recognition on US 31 and be able to remind people that they are a polling site and would advertise for other community groups that are using their facilities.

Mr. Holmes questioned why the two existing freestanding signs are non-conforming. Ms. Myers stated that the Staff couldn't verify that both signs were constructed with permits because of loss of files due to the flood.

Ms. Lamb stated that the electronic sign will be monochromatic (red in color) and the sign will not scroll or have any flashing. She stated that having the sign remain on in 8 second increments would not be a problem. Mr. Holmes questioned how long the sign would be on. Ms. Lamb stated that it would be on 24 hours a day. Mr. Holmes questioned if this would eliminate the need for temporary signs. Ms. Lamb stated that it would greatly reduce the need but may want to put up something for special events, like the carnival the church has every year.

Ms. Myers stated that with the commitments offered by the petitioner, the Staff would recommend approval:

1. The electronic message board to be monochromatic.
2. Messages would remain static for a minimum of 8 seconds per frame.
3. There will be no scrolling, animation, or flashing.

Action taken on ZB 2010-06 (V): Franklin Church of Christ:

Bob Swinehamer made a motion to approve the variance with the following commitments:

1. The electronic message board to be monochromatic.
2. Messages would remain static for a minimum of 8 seconds per frame.
3. There will be no scrolling, animation, or flashing.

Phil Barrow seconded the motion. The motion was approved unanimously.

ZB 2010-07 (V): Lowe's:

Ms. Myers stated that the petition is for a developmental standards variance to allow outdoor display and storage of merchandise in parking areas and adjacent to the structure without required screening. The property is located in the Mixed Use: Regional Center and Gateway Overlay zoning districts. The property is located at 2219 N. Morton Street. The variance is needed as there are two articles within the Zoning Ordinance that address outdoor display of merchandise and that currently Lowe's does not comply.

Steve Citowitz, manager of Lowe's in Franklin, stated that there are currently display sheds in front of the store that have been there for several years. The sheds are kept neat and are available so people can go into the shed to see the actual size to assist them in making their purchasing decision.

Mr. Citowitz stated that the approval will not be injurious to the general welfare of the community. The use and value of the adjacent area included in the variance will not be affected in an adverse manner. He stated the practical difficulty is if Lowe's could not have the sheds outside, they couldn't sell them. He stated they really do need them outside in the type of business they're in. Mr. Citowitz stated that customers need to be able to view the sheds to make a good purchasing decision.

Mr. Swinehamer questioned why they couldn't have the sheds inside the building. Mr. Citowitz stated that there is no space inside the building. He stated that in the busy season, they don't have room for all the products that they sell. Some of the seasonal items must be stored outside, such as grills, lawnmowers and sheds.

Mr. Holmes questioned if there is an allowance for Walmart's outdoor seasonal items. Ms. Myers stated there is no allowance in that zoning district, but Walmart was built prior to the current Zoning Ordinance and therefore is grandfathered.

Mr. Citowitz stated that the sheds are in place year round. He stated they are not going any further with the location of the sheds. They'd just like to continue business as they currently do. Ms. Myers stated that the sheds have not moved outside of the current areas since 2007.

Ms. Myers stated that the Staff recommends denial.

Mr. Swinehamer stated that he believes there truly is a practical difficulty with the storage sheds as some of them are big enough for a small family to live in. He stated that storing gas grills and lawnmowers indoors becomes a safety hazard. He stated it is not just the floor space but the practical difficulty is having those things available, how do you get them in and out the door. Mr. Swinehamer stated that the assumption is made that when you operate something like Lowes or Home Depot, it almost goes without saying that they sell those particular items. Mr. Holmes stated that at least Lowe's is trying to do it in the most aesthetically pleasing way as possible.

Mr. Citowitz stated they would be open to recommendations as well. Mr. Pfifer questioned if they would be willing to keep them where they are. Mr. Citowitz stated they would be willing to.

Action taken on ZB 2010-07 (V): Lowe's:

Phil Barrow made a motion to approve the variance with the commitment that outdoor storage shall only be placed in areas highlighted in green per the exhibit provided in the Staff Report. Tim Holmes seconded the motion.

The motion was approved unanimously.

ZB 2010-08 (SE): Procter & Reinacker Farmer's Market:

Ms. Myers stated the petition is for a special exception to allow the operation of a farmer's market in an Agricultural zoning district. The property is located at 2117 S. US 31, which is located in Franklin's Buffer Zone. A farmer's market is listed as a special exception within that zoning district.

George Reinacker and Jenny Procter, property owners, stated they purchased the property with the intention of putting a farmer's market on it. Mr. Reinacker stated the property is currently run down and in pretty bad shape.

Mr. Reinacker stated the approval will not be injurious to the general welfare of the community. Ms. Procter stated their plan is to construct a metal roof across the existing two structures to create a breezeway with a covered front porch. Mr. Reinacker stated that they won't know what they will be getting into until they actually start work and start tearing things apart. Ms. Procter stated that the County has said they can't tear off anything until approval is granted by the BZA.

Mr. Reinacker stated the requirements for use will be met through zoning by the City since it is in the buffer zone. He stated that granting the special exception will not be contrary to the general purposes served by the Zoning Ordinance and will not be injurious to other properties or uses in the same zoning district. Ms. Procter stated that behind their property is the Lake Motel. She stated the plan is to put a privacy fence up. She stated that the residents around the area would appreciate getting rid of the distressed property.

Mr. Reinacker stated that the granting of the special exception does not interfere with the comprehensive plan. He stated that a lot of things were unknown yet such as hours of operation. He stated they would probably close by dark but it depends on if they are going to do something throughout the winter. Ms. Procter stated that she had contacted INDOT and they will be issuing a permit and then scheduling an inspection. Ms. Myers stated that Staff has been working closely with INDOT and anytime a property changes use, even though a drive may be existing, it does require their review.

Curt Aton, 2696 Lafayette Avenue in Columbus and owner of the property to the south, stated he had looked at the property when purchasing property for a self storage business. He stated that when he inspected the property, he found the property in very bad shape. He stated there were safety issues, health concerns, mold and he thinks the current building should be knocked over. He does agree with the proposed plan to upgrade the building. Mr. Aton stated that his concerns are whether or not there will be public restrooms as the previous owners had issues with the septic system. He stated the other concern is with other farmer's markets on US 31 and the non-conforming signs that are used. He stated he wants to make sure that any new signs comply with the current standards.

Ms. Procter stated that she is aware of the septic issues. She stated that they have talked to Bob Smith of the Johnson County Health Department. She stated that they propose to have one bathroom available to the public and a mop sink. Ms. Procter stated that they would go by the approval of the Planning Department for all signs. Ms. Myers stated that in the Agricultural zoning district a 6 square foot sign no greater than 4 feet in height would be allowed. Anything larger than that would require approval from the Board of Zoning Appeals. Mr. Reinacker stated that he did agree with Mr. Aton's statement that the building may have to be torn down.

Ms. Myers stated that the Staff recommends approval with the following conditions:

1. A minimum of 10 parking spaces shall be provided.
2. All other requirements outlined in Article 7: Development Standards and Article 9: Site Development Plans applicable to Mixed Use: Regional Center (MXR) zoned properties, with the exception of Article 7.17 - Part 1: Buffer Yard Requirements, shall apply to the development of the subject property.

Action taken on ZB 2010-08 (SE): Procter & Reinacker Farmer's Market:

Tim Holmes made a motion to approve the variance with the conditions listed by Staff.

1. A minimum of 10 parking spaces shall be provided.
2. All other requirements outlined in Article 7: Development Standards and Article 9: Site Development Plans applicable to Mixed Use: Regional Center (MXR) zoned properties, with the exception of Article 7.17 - Part 1: Buffer Yard Requirements, shall apply to the development of the subject property.

Phil Barrow seconded the motion. The motion was approved unanimously.

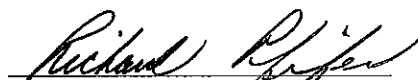
Other Business:

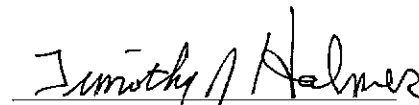
None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 5th day of May, 2010.


Richard Pfifer, Chairman


Tim Holmes, Secretary