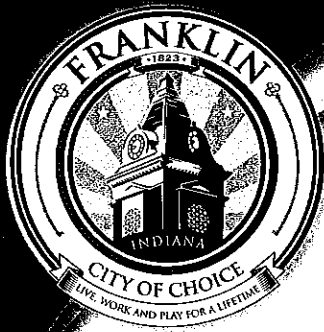




CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT · DEPARTMENT OF ENGINEERING

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

May 5, 2010

Members Present:

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

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:

Ms. Gray noted that Phil Barrow's last name was missing from page 7 and to check on the spelling of "Procter" as it relates to ZB 2010-08 (SE).

Bob Swinehamer made a motion to approve the April 2010 minutes with the noted corrections. Phil Barrow 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 2010-03 (V): Key Bank:

Mr. Pfifer stated that the petition has been continued by Staff to the June 2, 2010 meeting.

New Business:

ZB 2010-09 (V): Paul O'Dell:

Joanna Myers stated that the petition is for a developmental standards variance to allow a side yard setback encroachment and also to allow stone and gravel in the Industrial Business Development zoning district. The property is located at 161 RJ Parkway. The variance is needed as the minimum setback is 25 feet. The building was constructed at 19 feet from the property line, which results in a 6 foot encroachment. The interior drives and parking areas are required to be paved with asphalt or concrete per the Ordinance. They are currently stone/gravel.

Ken Zumstein, representing Paul O'Dell, submitted an area map, zoning map, site drawing and building permits to the Board. Mr. Ray Johnson was hired by Mr. O'Dell as the contractor. Mr. Zumstein stated that the property is located off of Earlywood Drive and is east of Graham Road. He stated that a building permit was obtained by Mr. Johnson for the 160 foot long building. He stated there was a 25 foot setback.

Mr. Zumstein stated that Mr. Johnson had built the building and the owner now wants to add a garage door. The owner requested a stone access drive to the back of the building. As per the Staff's recommendation, they had an as-built survey completed. The survey verified that the building is 160.3 feet which puts it 5.9 feet within the side yard setback. Mr. Zumstein stated that the access drive encroaches into the setback and the parking extends 6 feet off the property line which created an encroachment in the rear. He stated that they are requesting approval of the building encroachment into 25 foot side yard setback, the access drive encroaching into side rear setback and requesting the stone driveway remain without paving.

Mr. Zumstein stated that the approval will not be injurious to the general welfare of the community. He stated that the building encroaches 6 feet into the west side yard setback but still will leave enough area to access the building and service the rear of the building. He stated that this access is for secondary access only. There are garage doors on front of the loading dock.

Mr. Zumstein stated the adjacent property will not be affected. He stated there is a fence separating the adjacent property of a wrecker service on the west. The property to the east has about 35 feet between buildings.

Mr. Zumstein stated there is a practical difficulty as the existing building is completed and would require removing 6.9 feet of the structure and the redesigning of the west end of the building.

Mr. Swinehamer stated that the lot appears to be 214.5 foot wide. He questioned if the building could have been put a 35 or 30 feet and still complied.

Mr. Zumstein stated that there was an existing building and this was an addition to the building. He stated that the Technical Review Committee had approved a 155 foot building but the permit that was issued had shown a 160 foot in the building plans. Ms. Myers stated that the site plan submitted for the

building permit was the same plan that was submitted for Tech Review and had shown a 155 foot wide building.

Mr. Swinehamer asked the Petitioner to explain the reasons that the doors and parking are needed in the back of the building. Ray Johnson stated that there is no way into the building except for the loading dock. Mr. Swinehamer questioned why the driveway could not be paved. Mr. Johnson stated that it could be. Mr. Swinehamer questioned why they are asking for relief from the paving requirement. Mr. Johnson stated that they were hoping they wouldn't have to. It is mostly for the expense to Mr. O'Dell so he can park his truck in the building. He stated that it's not going to be an everyday occurrence that it is used.

Mr. Pfifer questioned if they would commit to paving the drive if required. Mr. Johnson stated that they would. Mr. Holmes questioned how the property drained and if the drive will impact the drainage. Mr. Zumstein stated there is a storm sewer pipe underneath the gravel in the back.

Ms. Myers stated that the original site plan was reviewed and approved and it complied with all regulations. If there a site change is needed, it is required to go back through the review process. She stated that the request for a variance from the setbacks for the interior drives were not needed. The setback request is only for the building. She stated that the Zoning Ordinance was changed in 2004 and at that time, the setbacks were changed from 20 feet to 25 feet.

Mr. Swinehamer stated that he doesn't want to see the Board create an issue with the drainage. He suggested that the case be continued to next month to determine if the asphalt is going to create a bigger mess or if it can be complied with. Ms. Myers stated that the drainage for the entire subdivision would have been reviewed with the development of the subdivision. She stated that she wouldn't be too concerned that the site would not be able to meet drainage requirements, but that site modifications may have to be made to make sure the grades are appropriate.

Ms. Myers stated that Staff would recommend approval of the side yard setback encroachment with the commitment to go through Technical Review Committee and to continue the request as it relates to stone and gravel to the next meeting.

Action taken on ZB 2010-09 (V): Paul O'Dell:

Bob Swinehamer made a motion to approve the side yard setback with the commitment that the site plan be reviewed and approved by the Technical Review Committee and to continue the request for the stone and gravel variance to the June 2, 2010 meeting. Phil Barrow seconded the motion. The case was approved by a unanimous vote.

ZB 2010-10 (V): Kroger – Fuel Station:

Ms. Myers stated that the petition is for a developmental standards variance to allow the outdoor display of merchandise without screening, to allow the use of red as an exterior color and to allow wall signage to be placed on an accessory structure. The property is located in the Northwood Plaza on the north side of the entrance off of US 31. The variance is needed as outdoor storage of merchandise is required to be screened per the Zoning Ordinance, the Gateway Overlay zoning district limits the use of primary colors to 10% of a façade and it states that wall signs shall be located on a primary structure.

Ross Byers, Steve Williams, and Pat Balley were in attendance representing Kroger. Steve Huddleston, representing the Kroger store, stated that the fuel station is located on 5/10 of an acre.

He stated that the proposed fuel station will have 5 fuel pumps. The middle of the station is a building that is 112 sq.ft. in area. There will be one employee in the building and there will not be public access to it. Mr. Huddleston stated the proposed site will sell gasoline and sales of related products.

Mr. Huddleston stated that the Staff has deemed that the canopy of the fuel station is an outside wall and according to the City ordinance, it cannot be a primary color. He stated that the proposed color of part of the fuel station is red as it identifies the Kroger logo.

Mr. Huddleston stated that since the Staff has deemed the fuel station to be an accessory structure to the Kroger store and accessory structures are not allowed signage, they have to seek a variance for the signage. He stated that signage with word "Kroger" and the Kroger logo would go across the canopy as well the prices on an electronic message sign.

Mr. Huddleston stated that outside storage is not allowed at the fuel station under the City ordinance. He stated that they seek to modify the petition to the recommendations of Staff. They commit that the display items shall be located completely under the canopy and the display items shall not be located within the drive aisles.

Mr. Huddleston stated that the approval will not be injurious to the general welfare of the community. The color scheme and storage is not adverse to the public. He stated the colors will be an advantage to the public to be able to easily identify it. He stated another advantage is that Kroger card carriers will receive a discount of up to \$.10 off a gallon.

Mr. Huddleston stated that the adjacent property would not be affected in an adverse manner. He stated that he has been contacted by the owners of Enzo's Pizza and they are excited about the new fuel station.

Mr. Huddleston stated that the practical difficulty is that under the current ordinance, they would not be able to use logos, the Kroger Fuel Station color scheme or signage on the structure. All of the other fuel stations in the area have outdoor storage. He stated that the location must be near the Kroger store to be a feasible location. He stated they are proposing to use 140 sq.ft. of signage, which is half of what they could request. Mr. Huddleston submitted Exhibits 1-31, the application and staff report were also submitted for the record.

Phil Barrow questioned if the prices were going to be on the front of the structure. Mr. Huddleston stated they would be on the front of the station only. Mr. Swinehamer questioned where the new parking spaces would be. Mr. Huddleston stated that they are creating 9 spaces between Quiznos and the fuel station. There will be 55 more behind the Kroger store for employees.

Mr. Holmes expressed his concern over having merchandise outside of the canopy and not on the concrete pedestals. Mr. Barrow stated that he had concerns regarding displaying mulch outside. Mr. Byers stated they would be willing to commit to not storing mulch outside.

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

1. Display items shall be located completely under the canopy.
2. Display items shall not be located within drive aisles.
3. No mulch shall be stored outside.

Action taken on ZB 2010-10 (V): Kroger-Fuel Station:

Bob Swinehamer made a motion to approve the variance requests with the commitments offered by the petitioner:

1. Display items shall be located completely under the canopy.
2. Display items shall not be located within drive aisles.
3. No mulch shall be stored outside.

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

Other Business:

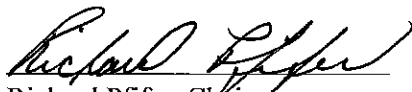
Ms. Myers stated that the Indiana Department of Natural Resources is offering workshops on floodplain management if anyone is interested in attending.

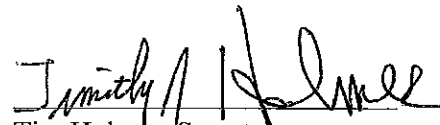
Ms. Myers provided the Board with an update regarding the City of Franklin Acquisition Project.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 2nd day of June, 2010.


Richard Pfifer, Chairman


Tim Holmes, Secretary