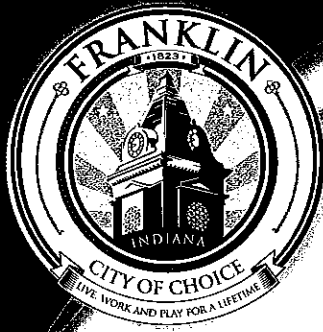




CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT · DEPARTMENT OF ENGINEERING

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

May 4, 2011

Members Present:

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

Members Absent:

Tim Holmes	Secretary
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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.

Swearing In:

Lynn Gray swore in the audience en masse.

Approval of Minutes:

Phil Barrow made a motion to approve the April 6, 2011 minutes as presented. Bob Swinehamer seconded the motion and the members voted unanimously to approve the minutes.

Old Business:

ZB 2011-03 (UV): Julie Stewart-Retail Shop:

Ms. Myers stated the petition is for a use variance. The case was before the Board at the April 2011 meeting. Ms. Myers stated there was one modification made to the staff report. Last month it was indicated that the variance was for an antique store. The request is for a variety store. Ms. Myers stated that the property is located in the Residential: Traditional Neighborhood zoning district. The use variance is needed as a variety store is not a permitted use.

Amy Grimmer stated they were requested by the Board at the April meeting to find out if they could find extra parking. She stated they would need 9 parking spaces. Two spaces are located onsite and they would need 7 additional off street spaces. They were able to come up with 4-5 additional spaces at the Chamber of Commerce parking lot. Julie Stewart indicated that they spoke with Tricia Bechman at the Chamber, who did not think it would be a problem but would have to speak with the owner. That Board meets on June 1st.

Ms. Grimmer stated that in regard to the two parking spaces they do not have secured yet, they are hoping will be walking traffic. They don't want to make the extra traffic an issue in the neighborhood.

Mr. Barrow questioned if the 4 spaces at the Chamber were to be shared with the Chamber. Ms. Stewart stated the spaces to the north are rented by the Chamber and that is what they are talking about. Ms. Myers questioned if they are looking at expanding the existing lot with additional pavement. Ms. Stewart stated they could do that or place gravel in the area. Mr. Pfifer questioned if they could pass the petition without the Board's approval of the parking lot. Ms. Myers stated it would be contingent on approval of them approving the parking. Ms. Myers stated that any additional parking would be required to meet the requirements of striping, size and hard surface.

Mr. Swinehamer questioned what the practical difficulty is resulting in using the property for the business rather than using it for a two unit dwelling. Ms. Grimmer stated that the property was upgraded considerably. They want to maintain the strict historical significance of the property. She stated that having the business on the first floor would allow them to keep an eye on the house and keep it maintained versus having tenants in the house that could ruin the property.

Rev. Martin questioned if they would redirect traffic if they found that customers parked in front of the neighbors' houses. Ms. Grimmer stated they could post signs stating where the parking is located. Ms. Stewart stated they've put all new sidewalks in the area so if customers want to walk from Salvage Sisters or Thanks for the Thyme, they can.

Ms. Stewart stated she had asked Ms. Myers about the parking at Salvage Sisters and the parking cannot be shared with the new retail store because you back into the right-of-way of the alley.

Mr. Barrow questioned if Ms. Stewart would be advertising both businesses together. Ms. Stewart stated they would.

Ms. Myers stated that Staff recommends denial.

Mr. Pfifer confirmed that even with the spaces from the Chamber of Commerce, the petitioner is still two parking spaces short. Ms. Myers stated that the area to be expanded could potentially give them 5 spaces. She stated the ordinance states that to grant the variance, they have to have 9 spaces. In order for the Chamber to share spaces, it must be in excess of the requirements for their building. She stated that if the Chamber leaves that location, a new business would need the current spaces for their needs.

Mr. Swinehamer stated that if the parking requirements are not met, they would also need a variance from parking standards along with a use variance. Ms. Stewart stated that the Chamber doesn't have any intentions of moving. Ms. Gray stated the issue is that they don't have the correct number of spaces. Ms. Gray stated that it would be a different variance than what is being requested. They would need a developmental standards variance in addition to the use variance.

Ms. Stewart questioned if the tenant and employees can use the parking on Madison Street. Ms. Myers stated that they can, but it doesn't count toward their required number of parking spaces.

Ms. Grimmer questioned if they can move forward with the use variance. Ms. Gray stated they can ask for it but it probably wouldn't go anywhere without the required parking. Mr. Swinehamer stated they could request another continuance and wait to find out if the Chamber would allow them to use the spaces. Ms. Myers stated that the expansion of the parking lot would need to have the site development plan reviewed. Mr. Swinehamer questioned how many spaces the Chamber needs for their building. Ms. Myers stated that she thought it was eight. Ms. Myers stated the parking is based on the square footage of the building plus employment.

Ms. Stewart requested a continuance to the July 6, 2011 meeting.

Action taken on ZB 2011-03 (UV): Julie Stewart-Retail Shop:

Phil Barrow made a motion to grant a continuance to the July 6, 2011 meeting. Bob Swinehamer seconded the motion. The motion passed unanimously. The case has been continued.

New Business:

ZB 2011-04 (UV): New Covenant Fellowship:

Ms. Myers stated the use variance is to allow a church to operate from the property located at 230 Commerce Drive which is located in an Industrial: Business Development zoning district. The variance is needed as a church is not listed as a permitted use. The petitioner has amended their petition to modify the request stating the total number of chairs provided will not exceed the occupant load as outlined in the Indiana building code or parking requirements outlined by the zoning ordinance.

Don Whetstine, Pastor of New Covenant Fellowship Church, stated that their current building is located in Trafalgar. He stated that most of the congregation lives in Franklin and they are looking to purchase the building on Commerce Drive for use as their new church building. He stated they have been in negotiations with Mutual Savings Bank and can get a loan if they can get a use variance.

Mr. Whetstine stated that the building was built to be a dance studio but they would like it to be the home for their church. Mr. Whetstine stated that the variance would not be injurious to the general safety of the community. Mr. Whetstine stated that the adjacent property will not be affected in an adverse manner.

Mr. Whetstine stated that there will be a practical difficulty in the use of the property. Mr. Richardson stated that the building is currently designed as a dance studio which is not in line with an industrial use. He stated that the building as designed is really suited for the purposes of the church.

Mr. Whetstine stated it will constitute an unnecessary hardship. Mr. Richardson stated that it would cost quite a bit to remodel the building for an industrial use.

Mr. Swinehamer stated the one problem he sees is that the property to the west is used by a contractor. He informed the petitioner that if the adjacent uses interrupt their services due to noise, there is nothing that can be done about it. The property to the east is undeveloped as well and they will have to deal with whatever goes in there as it is also zoned Industrial. Mr. Whetstine stated he understands how it will impact them.

Ms. Myers stated that with the modified request and the information presented by the petitioner, Staff would recommend approval.

Action Taken on ZB 2011-04 (UV): New Covenant Fellowship:

Phil Barrow made a motion to approve the request as modified by the petitioner. Rev. Martin seconded the motion. The motion passed unanimously.

ZB 2011-05 (V): McDonald's:

Ms. Myers stated that the petition is for a developmental standards variance to exceed the maximum lot coverage, a variance from the pedestrian walkways as outlined in the Gateway Overlay section of the ordinance, to provide 40 parking spaces in lieu of the 61 required, for a reduction in the size of parking spaces from the requirement of 10 x 20 to the proposed 9 x 15.5 feet, a variance from the loading berth requirements, a variance for the minimum width of a one-way interior drives from the required 13 feet to 10 feet, a variance from the minimum separation of entrances, and a variance from the sign standards.

The property is located in the Mixed Use: Community Center and Gateway Overlay zoning districts at 1139 North Morton Street. Ms. Myers stated that certified letters were sent instead of certificates of mailing and would require a waiver of the Rules and Procedures.

Bob Swinehamer made a motion to accept the certified mailings in lieu of the certificates of mailing. Phil Barrow seconded the motion. The motion passed unanimously.

Tim Ochs, an attorney from Ice Miller representing McDonald's, stated the McDonald's has been at the U.S. 31 location for over 30 years. It was built when the building codes and zoning ordinance were much different. He stated that if it were a vacant site, McDonald's would probably not be going there. It has reached a point where it needs to be replaced for a lot of reasons.

Mr. Ochs stated that the new store will be better for the employees, customers and general public. There are currently 44 parking spaces provided. Five of the spaces get blocked in by the drive thru and several of the others are parallel parking spaces. The current effective number of spaces is less than what they are proposing for the new parking. The new spots are 15.5 feet deep and the requirement is 20. He stated that the new building is a more efficient building to run and will be better for the environment. The new building is almost the exact same square footage of the existing building with the elimination of the basement. He stated that the elimination of the basement will remove a safety hazard for the employees.

Mr. Ochs stated they agree with the first two criteria as mentioned by Staff in the staff report.

Mr. Ochs stated that the building at its widest point is only 1 foot wider than the current building. The balance of the rest of the building is about 5 or 6 feet wider than the existing building. Even if they kept the new building the same width as the old one, they would still have to ask for every variance they are requesting. Mr. Ochs stated the practical difficulty is that they can't fit a new building on the site and still meet all the ordinance requirements.

Mr. Ochs stated the maximum lot coverage was missed by 8.3%. He stated that there are only 4 trees on the property currently. The new plan will have 13 trees and they are doing their best to comply with the ordinance. He stated the physical characteristics and geometry of the building are not there to work with. They are increasing the size of the parking spaces from what they are now. The spaces will be diagonal and will make parking easier for customers.

Mr. Ochs stated the site is smaller than the entrance separation requirements. They are moving the northern entrance south a little bit away from an existing entrance.

Phil Rizzo, McDonald's Director of Operations for Southern Indiana, stated that the delivery truck currently has to maneuver behind the building. He stated one of the advantages of the new building is that delivery goes into the side, with no chutes down to the basement. Current delivery time is about 90 to 100 minutes, with the new system it should be about reduced by about 30%. He stated there will be two drive-thru order points which allows them to be much more efficient. It is a much more manageable way to handle traffic. Mr. Rizzo stated that 65% of the current traffic is going through drive-thru.

Mr. Ochs stated that they are not asking for an increase in the square footage of signage over what already exists. He stated to comply with the ordinance requirements is a practical difficulty. He stated that the allowed signage by ordinance would make the business difficult to find on US 31. Most of the other businesses on U.S. 31 also have pylon signs.

Ms. Myers questioned if the width of the building currently takes into account the canopy. George Lukas, stated that it does not; it is to the base of the building. Ms. Myers questioned the difference in width presented versus provided in the staff report.

Mr. Barrow questioned where the items that were stored in the basement are to be stored in the new building. Mr. Ochs stated that they will be stored on the first floor in the eastern portion of the building. Some of the efficiencies are picked up in the kitchen area where a stack & roll storage method allows them to maximize space.

Rev. Martin stated he was concerned that U.S. 31 is going to become a tighter and tighter squeeze. Mr. Ochs stated it is consistent with uses on the U.S. 31 corridor. The new store will make things safer because it complies with the new fire codes and safety measures. The site will be safer for employees and patrons. He stated that they have done their best to comply with the ordinance. He stated they have tried to maximize the space they have and will end up with a store that is safer, healthier and better.

Mr. Swinehamer questioned if they thought about finding a new location. Mr. Ochs stated that it is a corporate store and McDonald's looks at a lot of factors before they replace a building. The current site is not nearly as good a site as it could be but they may not get another store because they would be so far down on the list at McDonalds for a new store that it's not likely for them to get another site.

Mr. Swinehamer confirmed the northern most entrance is for exit only. He stated that it is built so someone could turn into the northbound lane. Mr. Lukas stated it could be made to be a right turn only to the north. Ms. Myers questioned if INDOT had reviewed the entrances yet. Mr. Lukas stated they had not.

Ms. Myers stated that Staff would modify their recommendation to approval for the following requests:

1. Maximum lot coverage
2. Pedestrian walkways in the Gateway Overlay District
3. Loading berth
4. Minimum width of one-way interior drives only to the drive-thru
5. Minimum separation of entrances

Ms. Myers stated the Staff recommends denial for the following requests:

1. Minimum size of parking spaces
2. Minimum number of parking spaces
3. Sign Standards

Mr. Ochs stated they believe there is a net gain in regards to the parking spaces. It makes the spaces bigger and makes them all usable compared to the old configuration. He stated the new store is more efficient. They will be able to get people in and out much faster.

Mr. Rizzo stated that the employees will be moved to Columbus and Edinburgh during construction as well. The General Manager has a company car in order to help transport employees. Ms. Myers questioned if they had contacted the shopping center to the north about shared parking. Mr. Ochs stated there is no existing agreement with them.

Action Taken on ZB 2011-05 (V): McDonald's:

Bob Swinehamer made a motion to approve the eight (8) variances, subject to approval from INDOT. Phil Barrow seconded the motion. Swinehamer-Yes, Rev. Martin-No, Barrow-Yes, Pfifer-Yes. The case was approved by a 3-1 vote.

ZB 2011-06 (V): Discover Downtown Franklin:

Ms. Myers stated the petition is for a development standards variance to allow the placement of an 18 sq. ft. freestanding sign in the Mixed Use: Downtown Center zoning district. The property is located at the southwest corner of Jefferson Street and Jackson Street. The variance is needed as freestanding signs are not permitted in the MXD zoning district.

Megan Sweany, Discover Downtown Franklin Executive Director, stated they are a local non-profit organization, whose goal is to enhance the downtown Franklin area. They have recently been asked to take over the Franklin Farmers Market. The Farmers Market was originally created and maintained by the City of Franklin Parks and Recreation Department. They had trouble keeping it going due to budget issues. She stated that the market was originally at the Parks and Recreation center, and then it moved to East and West Court Street. This caused a lot of problems for the vendors as every time there was an event, they would have to move locations.

Ms. Sweany stated their first action was to secure a permanent location for the market, which will be the southwest corner of Jackson and Jefferson Streets. That has been approved by the Board of Works. The second course of action is to provide permanent advertising with a permanent sign so people will know where it's located and when it is. She stated that the new location will make it safer for shoppers as there will be parking available right where the market is.

Ms. Sweany stated that the approval will not be injurious to the public. She stated the sign will not be in the way as you are driving on Jefferson Street or Jackson Street.

Ms. Sweany stated the adjacent property will not be affected in an adverse manner. Retail and service stores are located along Jefferson Street. There is a vacant building to the west of the parking lot and a parking lot and lawyer's office to the south. There are vacant buildings and the county offices as well.

Ms. Sweany stated the ordinance will result in a practical difficulty in the use of the property. The goal of the sign is to create a permanent display for the market. The ordinance requires that permanent signage be on buildings and awnings in this area. She stated that there are no buildings or awnings on the property anymore so they are unable to do that. The ordinance does allow sandwich boards, but they need to be at least 10 feet away from the entrance and there is no building for there to be an entrance.

Ms. Sweany stated they are a non-profit organization and are not looking to make any money. It is more economically feasible to purchase a sign rather than rent a temporary one for every week during the market season. She stated that if they purchase a sandwich board, they will have to haul it over to the location. The moving of the sign would be left up to her as she is the only employee. She stated that if the sandwich boards were up that long they are at risk to vandalism or being stolen and would not be as visibly appealing. A permanent sign is requested to draw awareness to the market since the past years the market has moved around so much. She stated that they would like a sign up all year long so it would be visible through all seasons and for all events, such as the Holiday Lighting.

Ms. Sweany stated that the Comprehensive Plan identifies that the Downtown is a place for community activities and enhancing the character of the town. She stated the Farmers Market does just that. It gives farmers a place to sell their crops and people a place to buy homegrown food and homemade items.

Mr. Pfifer stated there are no freestanding signs in the MXD. Ms. Myers stated that it is because the zoning ordinance prohibits it. She stated that other businesses have come before the Board with a similar request. Mr. Barrow stated it is a unique situation. Mr. Pfifer questioned who owns the property. Ms. Sweany stated that the City of Franklin owns it.

Ms. Myers stated that Staff would recommend approval with the testimony heard this evening.

Action Taken on ZB 2011-06 (V): Discover Downtown Franklin:

Phil Barrow made a motion to approve the case as presented. Rev. Martin seconded the motion. The motion passed unanimously

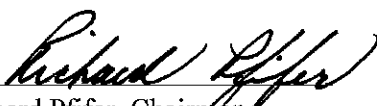
Other Business:

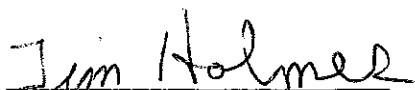
None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 1st of June, 2011.


Richard Pfifer, Chairman


Tim Holmes, Secretary