



CITY OF FRANKLIN

70 E MONROE STREET FRANKLIN, INDIANA 46131

BOARD OF ZONING APPEALS AGENDA

January 8, 2014 at 7:00 PM

[City Hall](#) ( [Map](#))

1. Call to Order
2. Roll Call & Determination of Quorum
3. Election of Officers
 - a. Chairman, Vice-Chairman, Secretary
4. Appointment of Legal Counsel
5. Approval of Minutes
 - a. December 4, 2013
Related Documents: [BZA Minutes 12 DEC 4 DRAFT](#)
6. Swearing In
7. Old Business
8. New Business
 - a. ZB 2013-22 (V) Wilson
Applicant: Diana Wilson
Location: 844 Hospital Road
Zoning: RR (Residential: Rural)
Request: Variance from Development Standards
Details: Variance from Article 3, Chapter 5 (Front Setback)
Related Documents: [ZB 2013-22 \(V\) Staff Report](#)
9. Other Business
10. Adjournment

Please contact the Department of Planning at 317-736-3631 if you require information regarding building accessibility or reasonable accommodation.

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

December 4, 2013

Members Present:

Tim Holmes	President
Phil Barrow	Vice-President
Jim Martin	Secretary
Brian Alsip	Member
Rev. Richard Martin	Member

Others Present:

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

Call to Order:

Tim Holmes called the meeting to order at 7:00 p.m.

Approval of Minutes:

Ms. Gray stated that on page 4, the 5th paragraph needs to be revised as Dave Kahre does not live across the street, but his office is across the street. Phil Barrow made a motion to approve the November 6, 2013 minutes with the noted correction. Brian Alsip seconded the motion. The members voted unanimously to approve the minutes as corrected.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

Travis Underhill, City Engineer, introduced Alex Getchell and stated that he will be starting with the City Planning Department next week.

New Business:

ZB 2013-19 (V) Affordable Care, Inc.:

Affordable Care is located at 160 Holiday Place. The petition is for a developmental standards variance to allow an additional freestanding sign to be 33 feet in height and 242 sq ft in area. The property is zoned Mixed Use: Regional Center and is also in the Gateway Overlay. The variance is needed as one freestanding sign is permitted and this would be an additional one to their existing monument sign. The total sign area permitted by ordinance would be a maximum of 164 sq ft and the maximum area of a freestanding sign is 100 sq ft and maximum height is 25 sq ft.

Tom Vander Luitgaren, attorney with Van Valer Law Firm, is representing Dr. Wick and Affordable Care. He stated Affordable Care has just built a \$1.5 million building. He stated the ordinance only allows one freestanding sign. They currently have a pylon sign at their previous location that directs people from I-65 to the business and a monument sign that will serve those turning in from Holiday Lane. He stated that they are requesting to relocate the existing pylon sign from their previous location to their new location at 160 Holiday Place.

Mr. Vander Luitgaren stated the approval will not be injurious to the general welfare of the community as the pylon sign is currently located a couple of lots to the south. It will increase safety as it will get people to their location. He stated that allowing 2 freestanding signs will be neutral insofar as it relates to the health, safety, morals, and general welfare of the community. Mr. Vander Luitgaren stated the existing monument sign cannot be seen until people are driving north to the site off of Holiday Lane.

Mr. Vander Luitgaren stated the adjacent property will not be affected in an adverse manner. The neighboring properties also have similar signage.

Mr. Vander Luitgaren stated there will be a practical difficulty as there are about 3 turns off of State Road 44 to get to the property making it difficult to find the building.

Kip Husk, Husk Companies Inc., stated Dr. Wick asked him to answer any questions about the signs.

Mr. Husk submitted photos as Exhibit "A". He stated there are technically 4 turns to get to the building off of State Road 44. The front of the building is only seen from State Road 44. The back of the building does not have any signage on it. Mr. Husk submitted photos as Exhibit "B". The photos show the existing sign that was approved for the other lot by a variance. He stated the sign that is there currently will be more effective than Dr. Wick having to build at new sign. The sign will be moved two lots north. Mr. Husk submitted photos as Exhibit "C". The photos are the views from east and westbound traffic on State Road 44. He stated if you are traveling east or west you cannot see the sign unless you turn your head 90 degrees to see the front of the building.

Mr. Husk stated that the practical difficulty is that the location of Holiday Place does not allow anyone to see the business from Holiday Lane without the monument sign in place. He stated without the sign, it's difficult to see that the business is back there.

Mr. Husk stated another practical difficulty is that there is a retention pond in front of the building and caused the building to be set back significantly from State Road 44. The sign then needs to go closer to the road because of this.

Mr. Husk stated there are drainage and sewers lines on the front part of the property that do not allow a sign on the north edge. The set back of the sign requires it to be larger in area.

Mr. Husk stated there is a need to market directly to State Road 44 and I-65. The monument sign that is in place cannot be seen from State Road 44. If there is one car parked in the parking lot, you cannot see the sign.

Mr. Husk stated they are asking to be able to market to their cliental. The retention pond has been increased by 2 or 3 times. Dr. Wick stated that she understood that the pond had to be reconfigured for her development. Mr. Underhill stated the volume is the same but some aspects got bigger and some smaller.

Ms. Gray questioned if the existing sign is on property owned by Dr. Wick. Mr. Vander Luitgaren stated it was and the sign will be moved to the front of the parking lot of the new location. Ms. Myers stated the sign can stay on the property it's currently on. Mr. Vander Luitgaren stated the property will be sold. She stated if the sign was reduced to a 100 sq ft in area and 25 feet in height and the monument sign removed, it would meet all the requirements of the ordinance.

Mr. Husk stated they are planning on changing the pylon sign from its current height of 42 feet to 33 feet.

Staff recommends approval with the following conditions:

1. Sign permit will be obtained prior to construction.
2. The parking space in which the sign is located shall be marked with the appropriate pavement markings indicating it is a no parking area.

Action taken on ZB 2013-19 (V) Affordable Care, Inc.:

Brian Alsip made a motion to approve the variances with the following conditions:

1. Sign permit will be obtained prior to construction.
2. The parking space in which the sign is located shall be marked with the appropriate pavement markings indicating it is a no parking area.

Phil Barrow seconded the motion. The motion carried.

ZB 2013-20 (UV & V) Johnson County Fraternal Order of Police:

The property is located at 1300 Graham Street. The request is for two variances. The use variance is to allow the operation of a lodge and the developmental standards variance is to allow the delay of the installation of a hard surface parking lot. The property is zoned Industrial: Business Development. The use variance is needed as a lodge is not listed as a permitted use.

Tevis McLaughlin, Sheriff with Johnson County Sheriff's Department, stated they are members of the State and National Orders of Police. They have various fundraisers throughout the year. They meet once a month for an hour and need storage space and some office space for the executive officers. They are in some weekends. He stated it's a place for officers to stop by and have a Coke. He stated the area has industrial and residential uses around it. He stated the purchase of the building is contingent on the variances and a building inspection.

Mr. McLaughlin stated that within a two block area there are houses and industrial uses. He stated based on what is there he doesn't think it will be a big change. He stated it would be a benefit to those that are working and living in the area as police will be stopping in on occasion. He stated they will

blend into the area. He stated in the 1970s the building was used as the Arvin Union Hall and most recently, it was a residence. Ms. Myers stated it was also a construction firm and an HVAC distribution facility many years ago. Mr. McLaughlin confirmed that they would agree to the commitments in the staff report.

Mr. McLaughlin stated there will be a practical difficulty as they are planning on buying the building outright. They will have operating capital but cannot pave the parking lot immediately. He stated they will comply with paving within no more than 18 months.

Steve Barnett, City Council, stated he personally doesn't think the building would fit much of a business due to the size of the building but it will work for a lodge and will be good to have the increased police presence in that area.

Rob Henderson, City Council, stated he is in support of the variances. He stated the increase in law enforcement presence will be positive.

Staff stated that if the Board found sufficient evidence for approval of the use variance that the following commitments be placed upon the approval:

1. A minimum of 7 parking spaces, 10 ft x 20 ft be provided on site.
2. The garage will not be remodeled unless additional parking spaces are added at a ratio of 1 parking space per each additional 200 feet of floor area.

Staff recommends approval of the developmental standards variance with the following commitments:

1. The parking area will be paved/concreted within 18 months.

Action taken on ZB 2013-20 (UV & V) Johnson County Fraternal Order of Police:

Jim Martin made a motion to approve the use variance with the following commitments:

1. A minimum of 7 parking spaces, 10 ft x 20 ft be provided on site.
2. The garage will not be remodeled unless additional parking spaces are added at a ratio of 1 parking space per each additional 200 feet of floor area.

Brian Alsip seconded the motion. The motion carried. The petition was approved with commitments.

Jim Martin made a motion to approve the use variance with the following commitments:

1. The parking area will be paved/concreted within 18 months.

Phil Barrow seconded the motion. The motion carried. The petition was approved with commitments.

ZB 2013-21 (V) Fletcher:

The property is located at 3099 N. Morton Street. The petition is for a developmental standards variance to allow 9 signs, with a total area of 350.38 sq ft. The property is currently zoned Industrial: General. The variance is needed as the zoning ordinance states that the maximum number of signs

permitted is 4 signs. Based on the frontage of the facility, the maximum allowed sign area would be 346 sq ft.

Stephanie Fletcher-Joiner, with Fletcher, stated they would like to have a total of 9 signs installed on the building. They are doing a remodel and the manufacturer is requiring them to put up an arch with the dealer name and is also requiring them to put up a separate sign for each of the brands they sell. She stated they are asking for a variance to put the signs up as well as a Parts sign, a sign for their Service area and a sign for their Express Lane. Ms. Fletcher-Joiner stated there are a directional sign on the property and the pylon sign in the front that needs new fascia.

Ms. Fletcher-Joiner stated that she agrees with the findings in the staff report related to general welfare and adjacent properties. Tom Thompson stated they need the signs to help direct traffic onsite. He stated the manufacturer is making them install the signs as they want all the stores to be uniform. Ms. Myers stated the variance is for 5 additional signs and the additional square footage. The square footage is less than 4 sq ft, which is minimal based on the number of signs requested.

Ms. Fletcher-Joiner stated the adjacent property will not be affected in an adverse manner. Mr. Thompson stated if you are coming off of Earlywood Drive you need to know where service and parts are located. He stated the company has added another brand to their truck line as well.

Rob Henderson stated the area is well lit and is a significant improvement.

Staff recommends approval with the condition that all sign permits be obtained prior to construction.

Action taken on ZB 2013-21 (V) Fletcher:

Phil Barrow made a motion to approve the variance with the condition that all sign permits be obtained prior to construction. Jim Martin seconded the motion. The motion carried.

Other:

Ms. Myers requested approval of the 2014 BZA calendar.

Rev. Martin made a motion to approve the calendar. Jim Martin seconded the motion. The motion carried.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 8th day of January, 2014.

Tim Holmes, Chairman

Jim Martin, Secretary



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › www.franklin.in.gov/planning

BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, Associate Planner

Date: December 18, 2013

Re: Case ZB 2013-22 (V)

REQUEST:

Case ZB 2013-22(V)...844 E. Hospital Road. A request for a variance from the City of Franklin Zoning Ordinance Article 3, Chapter 5, to encroach into the required fifty (50) foot front yard setback in the Residential: Rural (RR) zoning district. The property is located at 844 E. Hospital Road, which is located within the extraterritorial area (buffer zone).

PURPOSE OF STANDARD:

The "RR", Residential: Rural zoning district is intended to provide areas for a mixture of agricultural and residential land uses. This mixture is intended to promote and maintain agricultural operations, while also allowing increased development in areas adjacent to developed infrastructure. This district should be used to provide unique, rural housing options and the future ability to extend urban infrastructure.

CONSIDERATIONS:

1. This property is located within the buffer zone. All building permits are to be obtained from Johnson County; however, the development standards (e.g., setbacks) are enforced by the City of Franklin.
2. The petitioner is requesting a variance to construct an 8-foot by 18-foot porch on the front of their residence. As a result, the residence and proposed porch would encroach twenty (20) feet into the front setback.
3. The existing residence is a legal non-conforming structure, located thirty-eight (38) feet from the front property line. The zoning ordinance requires a minimum of fifty (50) feet for front setbacks in the Residential: Rural (RR) zoning district.
4. If approved, the proposed porch would have a front setback of thirty (30) feet. See attached site plan.
5. Only one other residence in the general vicinity, 809 E. Hospital Road, is located closer than fifty (50) feet to the front property line, and that residence is setback approximately forty-three (43) feet.
6. According to Article 10.2: No legal nonconforming structure shall be enlarged or altered in a manner that increases its nonconformity without the approval of a variance by the Board of Zoning Appeals. Any structure may be altered to decrease its nonconformity.
7. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been

completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.

8. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
9. The 2013 Franklin Comprehensive Plan, Long-Term Land Use Plan, identifies this area as Traditional Residential. "Traditional residential areas include both (1) existing neighborhoods which are extensions of the core residential areas and (2) new development which is consistent in character and design features with the existing traditional and core residential areas. Land use in traditional residential areas is dominated by single-family homes of a diversity of sizes and styles. Also included are isolated occurrences and small clusters of neighborhood-serving convenience businesses, neighborhood parks and open spaces, and neighborhood-scale churches and schools. Accessory residences and select two and multi-family residential structures may be maintained and incorporated into these areas subject to restrictions which ensure adequate parking and compatibility with the scale, function, and design features of the neighborhoods."
10. According to the 2013 Franklin Comprehensive Plan, Land Use Plan definitions, Traditional Residential: "Traditional neighborhoods are distinctive in their character and references to historic development patterns in Franklin. Streetscapes are dominated by front porches and small front yard setbacks, garages are located to the rear of the house and generally accessed by alleys. Sidewalks; street trees; a diversity of housing designs, sizes, and styles; and human scale street lighting play important roles in the character of these neighborhoods."

The surrounding zoning and land uses are as follows:

Surrounding Zoning:

North: IN, Institutional
South: RR, Residential: Rural
East: RR, Residential: Rural
West: RR, Residential: Rural

Surrounding Land Use:

North: Institutional, Creekside Elementary
South: Residential
East: Institutional, Custer Baker Intermediate School
West: Residential

CRITERIA FOR DECISIONS:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA

1. ***General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

Approval of the proposed front porch addition will not crowd any other structure or adjoining property. Nor will it be a traffic hazard, since it will be setback nearly forty (40) feet from the edge of pavement. Therefore, the approval will not be injurious to the public health, safety, morals, or general welfare of the community.

2. ***Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

Staff Finding:

Approval of the proposed front porch addition will not affect the adjacent properties in a substantially adverse manner, as the existing residence already encroaches within the 50-foot front yard setback, and the modest eight (8) foot porch addition will not substantially alter the real or perceived setback from the right-of-way.

3. ***Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

Staff finds that the strict application of the ordinance may result in a practical difficulty, depending on whether the petitioner's simultaneous interior remodel allows for the porch addition to be located on the west side of the home, where the current front door is located (see attached photos). Furthermore, this situation might be considered a self-imposed practical difficulty, if the interior remodel and porch could have been designed with the porch being located on the west side of the home. The petitioner should explain what practical difficulty exists, in locating the porch on the west side of the residence.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION

Based on the written findings above, staff recommends **denial**.

If the Board finds sufficient evidence to approve the proposed development standards variances, staff would recommend the following conditions be placed on the approval:

1. Obtain all permits/approvals from City of Franklin and Johnson County prior to construction.

Site Photographs



View from South



View from West



Site Plan