



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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### BZA Staff Report

**To:** Board of Zoning Appeals Members

**From:** Alex Getchell, Associate Planner

**Date:** October 30, 2014

**Re:** Case ZB 2014-13 (V) | Scott & Beth Coons | 1675 S. Old U.S. Hwy 31

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#### REQUEST:

**Case ZB 2014-13 (V)...1675 S. Old U.S. Hwy 31.** A request for a developmental standards variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 5 to allow a parcel where a septic system is used to be split/reduced in size, to less than 2 acres in lot area, in the RR: Rural Residential zoning district. The property is located within the City's Extraterritorial Area, "buffer zone," at 1675 S. Old U.S. Hwy 31.

#### 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:

##### Current & Proposed Use

1. The petitioner currently owns two adjacent properties with single-family homes: the subject property at 1675 S. Old US Hwy 31 and the property immediately South at 1709 S. Old US Hwy 31. Both properties are within the City of Franklin's extraterritorial area ("buffer zone").
2. The petitioner is proposing to split the subject property, currently three (3) acres, down to just one (1) acre, and combine the remaining two (2) acres with their property to the south. See attached site plan.
3. Both properties utilize on-site sewage systems (septic systems) for their waste disposal.
4. While the subject property is located within the "Buffer Zone," it is nearly 1 ¼ mile from the Franklin City Limits and the closest possible sanitary sewer connection.

##### Development Standards

5. According to the City of Franklin Zoning Ordinance, Article 3, Chapter 5, all properties in the RR: Rural Residential zoning district, which utilize a septic system, shall be at least two (2) acres in lot area.
6. The requirement for a lot with septic system to be a minimum of two (2) acres in size was established to ensure all residential properties had adequate waste disposal opportunities on-site, should the original septic system fail. The two (2) acre requirement is based on the need for there to be additional room on the property dedicated for a secondary/back-up septic system to be installed.

7. Without an area available on-site for a back-up septic system, property owners must come to agreements with neighboring property owners to allow them to discharge their waste onto their neighbor's lot, or connect to a municipal sanitary sewer. If no agreement is made, a sanitary sewer connection is not possible, and a back-up septic system cannot be installed, the house and property could be condemned by the Department of Health.

#### **Johnson County Health Department**

8. The petitioners have received a letter (attached) from the Johnson County Director of Environmental Health, John Bonsett, which states "the current house is served by a functioning septic system" and "the sketch plan submitted for review identifies physical space on which a future replacement system could be installed if required in the future."
9. Mr. Bonsett's letter goes on to say: "this office would not object to the splitting off of the current house and the one acre of land upon which the house is situated."

#### **Comprehensive Plan & Zoning Ordinance**

10. The 2013 Franklin Comprehensive Plan, Long-Term Land Use Plan, identifies this area as Large-Lot Suburban Residential. "Large-lot suburban residential areas are intended to include primarily single family detached residences. Other uses in large-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from small-lot suburban residential areas by their comparatively larger lot size and setbacks and lower density. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood."
11. 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.
12. 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.

#### **Surrounding Zoning:**

North: RR, Rural Residential  
South: RR, Rural Residential  
East: A, Agricultural  
West: A, Agricultural

#### **Surrounding Land Use:**

North: Single-family residential  
South: Single-family residential  
East: Railroad & Crop field  
West: Agricultural/Crop field

## **CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:**

**(\*\*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 – DEVELOPMENTAL STANDARDS VARIANCE**

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:**

The approval of the variance could be injurious to the public health, safety, morals or general welfare of the community if adequate on-site sewage treatment/disposal cannot be provided in the future. Despite the Johnson County Health Department's assessment of the situation, Planning staff does not believe it is prudent to allow the one acre lot now, and potentially burden future property owners with a situation they cannot easily resolve. In matters such as this, where sewage waste disposal is concerned, a worst case scenario could mean the entire property is condemned. A lot size, which meets the standards of the zoning ordinance, of at least two (2) acres should be maintained.

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:**

The use and value of the adjacent properties will not be affected in a substantially adverse manner, as the proposal does not change the use or any physical component of the property.

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:**

The strict application of the ordinance will not result in a practical difficulty. The situation appears to be self-imposed, as it is possible to split the property from three acres, down to two acres, and not violate the zoning ordinance.

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

### **STAFF RECOMMENDATION – DEVELOPMENTAL STANDARDS VARIANCE**

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. Petitioner shall record a secondary septic system easement, as shown on the site plan submitted with this petition (marked "Future Septic Field"), at the same time as the recording of the parcel split which would reduce the lot to one acre. A copy of the recorded secondary septic system easement shall be provided to City of Franklin Planning staff within 30 days of recording.