



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: Cases ZB 2014-14 (UV & V) and ZB 2014-15 (UV) | Franklin Heritage, Inc.

REQUESTS:

Case ZB 2014-14 (UV & V)...Franklin Heritage, Inc. Variety Store. A request for a variance of use from the City of Franklin Zoning Ordinance, Article 3, Chapter 10 to allow the operation of a variety store in the RTN: Residential Traditional Neighborhood zoning district, and a developmental standards variance of Article 8, Chapter 2, to allow more than 6 sq. ft. of sign area. The property is located at 350 E. Madison St.

Case ZB 2014-15 (UV)...Franklin Heritage, Inc. Parking Lot as Primary Use. A request for a variance of use from the City of Franklin Zoning Ordinance, Article 3, Chapter 10 to allow the construction and operation of a parking lot as a primary use in the RTN: Residential Traditional Neighborhood zoning district. The property is located west of 350 E. Madison Street, between the railroad tracks and Depot Street; North of Madison Street and South of King Street.

PURPOSE OF STANDARD:

The "RTN," Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

CONSIDERATIONS:

Proposed Use | Architectural Salvage | ZB 2014-14 (UV)

1. Petitioner is proposing to utilize the long existing commercial building on the northeast corner of Depot Street and E. Madison Street, for the Franklin Heritage, Inc Architectural Salvage business. Due to the nature of the proposed business, staff has determined it falls under the land use classification of a variety store.
2. See the attached exhibits of the Existing/Historic/Proposed building elevations, proposed floor plan for the variety store, and the proposed parking lot on an adjacent property.
3. A variety store is defined as "a retail establishment that sells a multitude of consumer goods" and is classified as a Retail Use (Medium Scale) land use per the City of Franklin Zoning Ordinance. Retail Use (Medium Scale) is a non-permitted use in the "RTN," Residential: Traditional Neighborhood zoning district.

4. A variety store is listed as a permitted use in three of the four Mixed Use zoning districts: MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center). It is not listed as a permitted use or special exception in the MXN (Mixed Use: Neighborhood Center) zoning district.

Proposed Signage | ZB 2014-14 (V)

5. Petitioner is proposing to add signage to the building which would be similar in size and design to the McCarty's Franklin Bakery which previously occupied the building from 1918-1969.
6. The proposed wall sign is 3.5 feet tall by 40 feet long, for a total sign area of 140 sq. ft. The sign would be externally lit, by fixtures mounted above and pointed directly onto the sign.
7. Window signs are not permitted within the RTN: Residential, Traditional Neighborhood district, and will require Board approval. In non-residential districts, window signs are regulated as temporary signs, are limited to 25% of the window area, and do not require a permit.
8. Petitioner has requested window signage on two windows proposed to be installed near the southwest corner of the building that faces Depot Street and the railroad tracks.
9. Signs in the RTN: Residential, Traditional Neighborhood are limited to 6 sq. ft. is sign area.
10. In non-residential districts, except Institutional, each business use is permitted at least 50 sq. ft. of sign area, with the possibility of more depending on the linear feet of building frontage along a street. If this property/building was within any of the non-residential districts, at least 150 sq. ft. of sign area would be permitted, in some districts, 200 sq. ft. would be permitted.

Parking Requirements

11. Article 7, Chapter 10 of the Zoning Ordinance states "Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter."
12. According to Article 7.10:
 - a. A minimum of 1 off-street parking space is required for every 300 sq.ft. of gross floor area of the variety store (rounded to the nearest complete space) plus one (1) space for each employee working on the largest shift. (Retail floor area = 2,100 sq.ft. + 2 employees)
 - b. Parking spaces may either be located on the lot with the use(s) for which they are required, or on another lot that is within 500 feet.
 - c. Minimum parking stall size is 9' x 18' and must be striped.
 - d. Each parking space must be paved with asphalt or concrete.
 - e. A minimum of 2 bicycle parking spaces shall be provided.
13. Based on the square footage of the proposed variety store retail area (2,100 sq.ft.) and number of employees (2), a total of nine (9) parking spaces would be required to be located on site to comply with the Zoning Ordinance regulations.
14. At least one (1) space provided must be reserved for disabled persons, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.

Proposed Use | Parking Lot as a Primary Use | ZB 2014-15 (UV)

15. Petitioner is proposing to locate all nine parking spaces required for the variety store on a different lot than the store, directly across Depot Street, on the vacant lot east of the railroad tracks and between Madison Street and King Street. See attached preliminary site plan.
16. According to Article 7, Chapter 10 of the City of Franklin Zoning Ordinance, off-site and shared parking is allowed on another lot that is within 500 feet of the lot occupied by the use(s) for which the parking spaces are required.
17. Although off-site and shared parking is allowed, according to Article 3, Chapter 20 of the City of Franklin Zoning Ordinance, a parking lot (as a primary use) is listed as a non-permitted use on properties within the RTN: Residential, Traditional Neighborhood zoning district.
18. A parking lot (as a primary use) is listed as a permitted use in three of the four Mixed Use zoning districts: MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center). It is listed as a special exception in the MXN (Mixed Use: Neighborhood Center) zoning district. A parking lot or garage is also listed as a permitted use in three industrial zoning districts: IBD (Industrial: Business Development), IL (Industrial: Light), and IG (Industrial: General).
19. If approved, a site development plan approval would be required for the parking lot.

Comprehensive Plan

20. According to the 2013 Comprehensive Plan, Land Use Plan, this area is identified as Core Residential. "The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin's historically significant homes. Land uses in these areas should be dominated by a diversity of single family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated. The most significant land use relationships in this area are between the area's residential and non-residential uses, and between the area as a whole and the downtown. The area's mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area's sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes."

Zoning Ordinance

21. 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.
22. 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.

23. The surrounding zoning and land uses are as follows:

Surrounding Zoning:

North: RTN, Residential: Traditional Neighborhood
South: RTN, Residential: Traditional Neighborhood
East: RTN, Residential: Traditional Neighborhood
West: RTN, Residential: Traditional Neighborhood

Surrounding Land Use:

North: Residential
South: Residential
East: Residential
West: Vacant Lot/Railroad

ZB 2014-14 (UV)

CRITERIA FOR DECISIONS – USE VARIANCE (VARIETY STORE):

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

In taking action on all use 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 use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

DECISION CRITERIA – USE VARIANCE (VARIETY STORE)

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 use variance will not be injurious to the public health, safety, or general welfare of the community, as the subject property has been used commercially since 1918, and the petitioners will be providing all of the off-street parking required for the use, on an adjacent property.

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:

Staff finds that the adjacent properties would not be affected in a substantially adverse manner, as the property has historically always been used commercially. Continuation of a commercial use on the property will not substantially affect the adjacent properties.

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 result in a practical difficulty as the property has been used commercially since 1918 and the property is no longer located within a commercial zoning district which allows this type of use. There is a practical difficulty with requiring the property to convert to a residential use, when the petitioners are proposing to revitalize a historic commercial property that has always been used commercially.

4. *Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.*

Staff Finding:

Staff finds that the strict application of the terms of the Ordinance will result in an unnecessary hardship as the property has long be developed and used as a commercial property; however the zoning ordinance now requires a residential use, which would mean a dramatic change to the building or complete demolition.

5. Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.

Staff Finding:

The granting of use variance does not interfere with the Comprehensive Plan as it states that “historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated.” While the Comprehensive Plan does not specifically address commercial properties in the area, the petitioners are proposing to utilize a commercial building which is still being used as a commercial property. Thus, they are not converting an existing residence to commercial; which the Comprehensive Plan explicitly states should be prohibited or strictly regulated.

STAFF RECOMMENDATION – USE VARIANCE (VARIETY STORE)

Based on the written findings above, staff recommends **approval** of the variety store petition with the following conditions:

- a. Retail area limited to 2,100 sq. ft. in area.
- b. A minimum of nine (9) parking spaces shall be provided specifically for the variety store use.
- c. An application shall be submitted to the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.

ZB 2014-14 (V)

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE (SIGNAGE):

(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 – DEVELOPMENT STANDARDS VARIANCE (SIGNAGE)

- 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 will not be injurious to the public health, safety, morals or general welfare of the community. The proposed signage is intended to match the style and size of signage historically placed on the building from 1918-1969; therefore, staff does not believe the proposed signage, along with the recommended conditions of approval below, would substantially affect the general welfare.

- 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:

Staff further finds that the use and value of the adjacent property will not be affected in a substantially adverse manner, as the proposed signage is similar to signage that adorned the building for over five decades.

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 result in a practical difficulty as it is not practical to limit the long existing commercial property to the RTN: Residential, Traditional Neighborhood zoning district sign standards, which only allow up to 6 sq. ft. for signs. Business uses in all other non-residential districts, except Institutional, allow at least 50 sq. ft. of sign area. Furthermore, if this property/building were located within any of those districts, the petitioners would be permitted more sign area than they are requesting.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **approval** of the signage petition with the following conditions:

- a. Sign permit shall be obtained prior to installation of the sign.
- b. Sign shall be eternally lit only, as shown on the proposed building elevation, and all lighting shall meet the standards outlined in Article 7, Chapter 18, Exterior Lighting Standards, of the zoning ordinance.

ZB 2014-15 (UV)

CRITERIA FOR DECISIONS – USE VARIANCE (PARKING LOT):

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

In taking action on all use 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 use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

DECISION CRITERIA – USE VARIANCE (PARKING LOT)

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 use variance will not be injurious to the public health, safety, or general welfare of the community, as the proposal is complementary and necessary for the petitioner's proposed variety store use on an adjacent property. Approval of a parking lot will have no deleterious effect on the general welfare.

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 use variance will not substantially affect the use and value of the area adjacent to the property included in the variance, as the area planned for the parking lot, is currently used by neighboring residents as a make-shift parking lot for their personal vehicles, in the grass and on a gravel patch. A paved parking lot will not affect the neighboring properties in any 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:

The strict application of the ordinance will result in a practical difficulty as the petitioner is seeking to comply with the parking standards required for their proposed variety store use; however, there is no room on their long existing commercial property to construct any spaces.

4. ***Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.***

Staff Finding:

Staff finds that the strict application of the terms of the Ordinance will result in an unnecessary hardship, as the petitioner is unable to construct any parking spaces on the same property as the proposed variety store. Therefore, the petitioner has no other option than to construct a parking lot on a separate property as a “primary” use.

5. ***Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.***

Staff Finding:

The granting of the use variance does not interfere with the Comprehensive Plan, as the proposal will not convert an existing residence to a commercial use. In fact, the proposal will add parking spaces to an area of the City which is in need of extra spaces.

STAFF RECOMMENDATION – USE VARIANCE

Based on the written findings above, staff recommends **approval** of the parking lot petition with the following conditions:

- a. Site Development Plan shall be reviewed and approved by the Technical Review Committee prior to construction.
- b. At least one (1) space shall be reserved for disabled persons, consistent with the requirements in Article 7, Chapter 10, Part 3, Non-Residential Parking Standards, in the zoning ordinance.
- c. Signage to be provided indicating parking spaces are for use of Franklin Heritage, Inc. Architectural Salvage Patrons only.



EXISTING CONDITIONS



HISTORIC PHOTO - McCARTY'S FRANKLIN BAKERY



PROPOSED RESTORATION



