



## 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:** September 30, 2016  
**Re:** Cases ZB 2016-14 (V) | CKW Land Surveying

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#### REQUESTS:

##### **Case ZB 2016-14 (V)...Mardis Farm | 4570 E 150 S & 4696 E. Greensburg Rd.**

A request for consideration of developmental standards variances from the following:

- (1.) **4570 E. 150 S:** Article 3, Chapter 4, Primary Structure Front Setback less than 50 feet;
- (2.) **4696 E. Greensburg Rd.:** Article 7, Chapter 3, Accessory Structure Side Setback less than 25 feet;

in the A: Agricultural zoning district. The two subject home sites are currently located on the same property and the petitioners are seeking to subdivide the home sites into two separate tracts, with the remaining agricultural acreage separated off, but remaining altogether, except for an 18 acre wooded area on the south 70 acres. This property is located within the City of Franklin extraterritorial "Buffer Zone" area, and altogether is over 175 acres in size.

#### PURPOSE OF STANDARD:

The A", Agricultural zoning district is intended to provide locations for agricultural operations and related land uses. This district is further intended to reduce conflicts between residential and agricultural areas with the viability of agricultural operations, and limit development in areas with minimal infrastructure. This district should be used to protect agricultural operations from land uses that are incompatible with the available infrastructure.

#### CONSIDERATIONS:

##### **Project Overview**

1. CKW Land Surveying (Petitioner), on behalf of the Mardis Family, is proposing to divide two existing home sites off the overall 175.54 acre property, which is largely farm ground. ([See Exhibits A & B](#))
2. The overall 175.54 acre property is physically split by CR 150 S; approximately 105 acres is located between Greensburg Rd and CR 150 S, and approximately 70 acres are south of CR 150 S. Eighteen (18) acres of the southern 70 acre tract are wooded.
3. Both existing home sites are located on the ~105 acres between Greensburg Rd and CR 150 S.
4. Petitioners are proposing to subdivide the home site at 4570 E. 150 S. off as Tract 5 (2 acres), which will include a 25' right-of-way dedication along the length of 150 S.
5. Petitioners are proposing to subdivide the home site at 4696 E. Greensburg Rd. off as Tract 4 (5.79 acres), which will include a 35' right-of-way dedication along the length of Greensburg Rd.

**Tract 5 | 4570 E. 150 S. | Front Setback**

6. *Petitioner is requested relief from the minimum front setback requirement, to allow the existing home to be located 40 feet from the right-of-way line, instead of 50 feet, and 65 feet from the centerline of 150 S.*
7. With the subdivision of this property, the petitioner is required to dedicate right-of-way to the County, based on the functional classification of the road(s).
8. CR 150 S is classified as a local road and therefore required to dedicate 25 feet of right-of-way, measured from the centerline of 150 S.
9. According to Article 3, Chapter 4, of the City of Franklin Zoning Ordinance, properties in the Agriculture zoning district have a minimum Front Setback requirement of 50 feet, along all classifications of roads, measured from the right-of-way/front lot line.
10. The existing home at 4570 E. 150 S. sits 65 feet from the centerline of the road.
11. Subdivision of the property, including the dedication of 25 feet of right-of-way, plus the required 50 feet front setback, results in the existing home being 10 feet closer to the road (65'), than permitted (75'). Therefore, the property cannot be subdivided as is, nor without a variance, due to the resulting substandard lot that would be created.

**Tract 4 | 4696 E. Greensburg Rd. | Side Setback**

12. *Petitioner is requesting relief from the accessory structure minimum side yard setback requirement, to allow an existing structure to be located 24.3 feet from the proposed side property line, instead of 25 feet.*
13. With the subdivision of this property, the petitioner is required to provide, and meet with existing structures, all setback standards of the City of Franklin for the Agriculture zoning district.
14. According to Article 7, Chapter 3, of the City of Franklin Zoning Ordinance, properties in the Agriculture zoning district are required to have a minimum side setback of 25 feet for accessory structures.
15. Unlike the front setback request, where the front property line cannot be adjusted in any way to meet the standard, the side setback line can be adjusted and manipulated to meet the side setback requirement.

**Comprehensive Plan & Zoning Ordinance**

16. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Agricultural. "Agriculture areas are generally located outside the current city limits in Franklin's extended zoning jurisdiction. Existing agriculture areas within the city limits are prime locations for new development, consistent with the future land use plan map. Agricultural areas are intended to include traditional farming uses, in addition to agricultural products storage and distribution facilities (such as commercial grain elevators), stables, natural preserves, agricultural research facilities, and other animal husbandry and food production related activities."
17. 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.
18. 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.

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

**Surrounding Zoning:**

North: RT-1: Residential, Traditional One  
RSN: Residential, Suburban Neighborhood  
A: Agriculture  
South: A: Agriculture  
East: A: Agriculture  
West: RR: Residential, Rural

**Surrounding Land Use:**

North: Single-family/Agriculture field  
Single-family Residential  
Single-family Residential  
South: Agriculture Crop Field  
East: Agriculture Crop Field  
West: Single-family/Agricultural

**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 – DEVELOPMENT STANDARDS VARIANCES**

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:**

Staff finds no evidence that the approval of the proposed variances will be injurious to the public health, safety or general welfare of the community, in any way. The proposed tracts are surrounded by crop fields for hundreds of feet in either direction; approval of this request will not result in any property or structure being crowded or affected in any way.

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 use and value of adjacent properties will not be affected in a substantially adverse manner. The proposed tracts are surrounded by crop fields for hundreds of feet in either direction, and no physical changes are being made as part of this request; therefore, approval will not affect the use and value of any 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:**

- (1.) Staff finds the strict application of the ordinance WILL result in a practical difficulty, for the proposed Tract 5 at 4570 E. 150 S., as the front lot line cannot be adjusted in any way to meet the standard, and it is not practical to require the existing home to be relocated simply to meet the front setback, when the home will be located only 10 feet closer to the road than would now be required.
- (2.) Staff finds the strict application of the ordinance WILL NOT result in a practical difficulty for the proposed Tract 4 at 4696 E. Greensburg Rd., as the situation/practical difficulty is self-imposed. Petitioner has drawn the boundaries for the new Tract 4 and set the proposed property corner markers with the accessory building too close to the proposed property line. The proposed property corners were set prior to submittal of BZA application and prior to approval for the creation of the tract/subdivision by Johnson County. Staff finds no reason why the proposed property line could not be adjusted by 0.7 feet to meet the standard, except for the self-imposed situation that the property corners would need to be adjusted.

## **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **APPROVAL** and **DENIAL** as follows:

Staff recommends **APPROVAL** of Variance (1.) for Tract 5, 4570 E. 150 S., front setback, with the following conditions:

- a. A front setback line of 50 feet shall be included on the plat, and all new structures in the future shall meet the required front setback of 50 feet.
- b. Additions to- or reconstructions of existing structures, within the required 50 foot front setback, shall be permitted; however, those improvements shall be no closer to the front lot line than the structures as they currently exist.

Staff recommends **DENIAL** of Variance (2.) for Tract 4, 4696 E. Greensburg Rd., accessory structure side setback, due to self-imposed practical difficulty.