



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, Senior Planner I
Date: November 30, 2016
Re: Cases ZB 2016-15 (UV & V) | O.C. Repair

REQUESTS:

Case ZB 2016-15 (UV & V): A request to allow a variance of use from Article 3, Chapter 21, for a Truck Sales and Service Center, and a request for a developmental standards variance from Article 3, Chapter 21, to allow the property to exceed the maximum lot size of 5 acres, and be allowed approximately 12.88 acres, in the IBD: Industrial, Business Development zoning district. The property is located on the southeast corner of the intersection of Earlywood Drive and Hudson Street.

PURPOSE OF STANDARD:

The “IBD”, Industrial: Business Development zoning district is intended to provide locations for small scale manufacturing, construction, production, and assembly uses, as well as other light industrial uses. This district is specifically intended to provide appropriate setbacks and standards for small-scale businesses, entrepreneurial operations, start-up businesses, and similar operations.

CONSIDERATIONS:

Proposed Use Variance

1. O.C. Repair & Fabrication (Petitioner) currently operates on the east side of Franklin, at 2112 Early Lane, south of King Street, on east side of Lovers Lane. Petitioner operates a Truck Sales and Service Center that offers repair & maintenance services for autos, light-, medium-, and heavy-duty trucks, trailers, RVs, motor coaches, motorcycles and scooters. Petitioner also offers 24-hour emergency road service.
2. Petitioner received BZA Special Exception approval (ZB 2007-21) to operate a Truck Sales and Service Center, at their current location, in December 2007. Petitioner made the following Commitments at the time of that request:
 - a. The primary business shall be the repair of trucks and trailers;
 - b. There shall be only occasional sales of parts and trucks that are due to non-payment of repairs;
 - c. Hours of operation shall be 8:00 am to 5:00 pm Monday through Friday;
 - d. All oils and lubricants are contained within tanks and not discharged on the premises;
 - e. All repairs shall be done completely within the building;
 - f. No outside storage of parts;
 - g. No more than eight tractors and trailers outside at one time;
 - h. Gravel driveway shall be paved within one year of occupancy;
3. Truck Sales and Service Center is defined as: “Any establishment that sales and services semis, grain trucks, and other vehicles similar in size. Inoperable trucks may be stored on a temporary basis, and only if they are to be serviced.”

4. Truck sales and service center, is a non-permitted use in the “IBD,” Institutional: Business Development zoning district. *Petitioner is requesting a Use Variance at the subject property, which is zoned IBD.*
5. Truck sales and service center use is *not* listed as a permitted use in any district, but *is* listed as a Special Exception use in only the “IG,” Industrial: General and “IL,” Industrial: Light zoning districts.

Parking Requirements

6. According to Article 7, Chapter 10, Parking Standards, **Requirements for Non-conforming Uses and Uses Permitted by Special Exception or Variance:** 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 nonconforming 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.
7. According to Article 7, Chapter 10, **Stored Vehicles to be Salvaged / Repaired:** The outdoor storage of such vehicles associated with permitted auto repair or salvage facilities shall be consistent with the following requirements:
 - a. All such vehicles, including antique vehicles, shall be stored within the rear or side yard. In no case shall such vehicles be stored in any front yard, buffer yard, required landscape area, or required setback area.
 - b. All storage areas for such vehicles shall be completely enclosed with a 6 foot tall, 100% opaque wood, stone, or masonry fence. Gates allowing access to the storage areas are permitted, shall be closed when not in use, and shall consist of 6 foot tall, 100% opaque wooden doors.
8. According to Article 7, Chapter 10, Parking Standards:
 - A minimum of 1 off-street parking space is required for (rounded to the nearest complete space):
 - Every 200 sq.ft. in any car wash, repair, or modification facility;
 - Each employee working on the largest shift
 - Each business vehicle stored on-site.
 - At least one space must be reserved for disabled persons for every 25 parking spaces provided.
 - Minimum parking stall size is 9' x 18' and must be striped.
 - Each parking space must be paved with asphalt or concrete.
9. At this time, the petitioner has not begun the Site Development Plan process, nor provided any tangible information related to the design of the facility, number of employees, business vehicles, etc.; therefore, should the Board find evidence to approve the Use Variance request, the Board will be unable to specify the exact number of off-street parking spaces required. [See [Exhibit A: Conceptual Site Plan](#)]

Maximum Lot Size Variance Request

10. According to Article 3, Chapter 21 of the Zoning Ordinance, lots in the “IBD,” Industrial: Business Development district are to be limited to a maximum of five (5) acres in size.
11. *Petitioner is requesting relief from this standard, to be allowed to develop the subject property, of approximately 12.88 acres, without being required to subdivide the property into at least three lots, each less than five (5) acres in size.*

Wetland Reconnaissance

8. On October 28, 2016, AquaTerra Consulting, Inc. performed a Wetland Reconnaissance at the subject property, and prepared a report with findings and recommendations. [See [Exhibit B](#)]
9. According to the Wetland Reconnaissance report Conclusions: “Wetland conditions were observed in one area and could total approximately 3-3.5 acres. Presence of a dominant wetland plant community, hydric soils, and wetland hydrology indicators were observed. The wetland maintains a discrete outlet through a road drainage system, and a connection to downstream receiving waters, and therefore, is likely regulated as a ‘water of the United States,’ and will be subject to Corps and/or IDEM permitting requirements.”

10. According to the Wetland Reconnaissance report, AquaTerra Consulting, Inc. recommends, among other things, that the petitioner “conduct site design to avoid and minimize impacts to existing wetland, as much as possible. I strongly recommend minimizing impacts below the 1 acre wetland, to avoid the Corps Individual Permit (IP) process. Applications for IP’s are regularly denied by the Corps without significant alternatives analysis, cumulative effects assessments, and rigid project justification, which often cannot be met by development projects.”

Surrounding Zoning:

North: A, Agriculture

South: IBD, Industrial: Business Development

East: IBD, Industrial: Business Development

West: IBD, Industrial: Business Development

Surrounding Land Use:

North: Single-Family/Agriculture Crop Field

South: Fisher Contracting/Storage Yard

East: Agriculture Crop Field

West: Pickett Equipment Parts
Journey Church [ZB 2016-02 (UV)]
Countertop Connections

Comprehensive Plan

12. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Business Development Area. “Business development areas are intended to serve as both the permanent home of small scale businesses and incubators of new local companies. Land uses in business development areas include manufacturing, light industrial operations, contractor’s offices, and products suppliers. In many instances the types of businesses in these areas are those that have both commercial and industrial qualities. The business development areas provide these uses the ability to serve customers in a setting that allows outdoor storage and the operation of heavy equipment and machinery that often are involved.”

Zoning Ordinance

13. 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.
14. 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.
15. According to Article 11.3: Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit use variances to a specific time period and a specific use. Use variances shall be invalid if (1) the property conforms with the Ordinance as written or (2) the variance is terminated.

ZB 2016-15 (UV) | TRUCK SALES & SERVICE CENTER

CRITERIA FOR DECISIONS – USE VARIANCE:

(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:

-- Continue on next page --

DECISION CRITERIA – USE 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:

Staff finds the proposed use, primarily a large truck and trailer repair and service business, is similar in intensity, appearance and operation to other businesses in the immediate vicinity, including the contractor storage yards of Pickett Equipment Parts directly across Hudson Street and Fisher Contracting on adjoining property to the south. Therefore, staff finds approval of the use variance for the proposed Truck Sales & Service Center will not be injurious to the public health, safety, and 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:

Staff finds the use and value of adjacent properties will not be affected in a substantially adverse manner, as the proposed use, primarily a large truck and trailer repair and service business, is similar to other businesses in the immediate vicinity, such as Pickett Equipment Parts and Fisher Contracting (both contractor storage yards). Approval of the proposal would allow a potential undesirable use, in other parts of the City, to be clustered with other like uses.

3. ***Peculiar Situation: The need for the variance (arises or does not arise) from some condition peculiar to the property involved.***

Staff Finding:

Staff finds the need for the variance does arise from a condition or situation peculiar to the property, as the property is in close proximity to similar uses that are permitted in the same district, such as the contractor storage yards/facilities for Pickett Equipment Parts and Fisher Contracting. Staff finds the prohibition of the proposed use in the IBD district to be atypical with the out-right permission of other like uses in the district.

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 similar uses are operating from adjacent properties, without the need for Board of Zoning Appeals approval, and without any major distinguishing attributes between the uses that warrant greater scrutiny.

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 will not substantially interfere with the 2013 Comprehensive Plan, as the Land Use Plan designates this area as a “Business Development” area, and further elaborates on the character of these areas to include small scale and new local companies, with both industrial and commercial qualities, and those businesses needing outdoor storage and/or heavy equipment. Staff finds the petitioner’s proposed use closely aligns with all characteristics, as outlined in the 2013 Comprehensive Plan, for Business Development Areas; therefore, approval will not substantially interfere with the Comprehensive Plan.

STAFF RECOMMENDATION – USE VARIANCE

Based on the written findings above, staff recommends **APPROVAL** of the Use Variance petition with the following conditions:

-- Conditions a. through g. listed on next page --

- a. All applicable permits/approvals shall be obtained, including but not limited to: recording of secondary plat, site development plan approval, building permits, sign permits, etc.
- b. Petitioner shall provide parking in compliance with Article 7, Chapter 10, Parking Standards.
- c. The primary business shall be the repair of trucks and trailers.
- d. There shall be only occasional sales of parts and trucks that are due to non-payment of repairs.
- e. All oils and lubricants are contained within tanks and not discharged on the premises.
- f. All repairs shall be done completely within the building.
- g. All vehicles stored onsite, either pre-, during-, or post-repair, shall be stored completely within a 6 foot tall, 100% opaque wood, stone or masonry fence storage area, or inside the building, except during times of drop-off/pick-up by customers.

ZB 2016-15 (V) | MAXIMUM LOT AREA

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCES:

(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

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 maximum lot size variance may be injurious to the public health, safety, morals and general welfare of the community. While approval of a larger lot size is contrary to the intent of the “IBD”: Industrial, Business Development zoning district, approval would afford the petitioner greater flexibility in site design, in response to the recent discovery of approximately 3-3.5 acres of wetlands on the subject property. However, using the buildout of the general vicinity as an example, it’s plausible that as many as four or five lots could be subdivided and successfully developed, from the remainder of the 12.88 acre property. One of four Land Use Goals set forth in the 2013 Comprehensive Plan, was to “ensure that Franklin has an adequate supply of appropriately located industrial land ready for development”; approval of this variance could potentially underutilize available industrial land. If appropriately located and available industrial land is not developed to its potential, it could result in future industrial businesses deciding not to locate in Franklin, or could result in industrial uses seeping into other non-industrial areas.

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 the adjacent property will not be affected in a substantially adverse manner. The general vicinity (Johnson Industrial Park and Hudson Commercial Park) is comprised of various types of industrial uses, including similar uses of heavy equipment contractor storage yards for Pickett Equipment Parts, Fisher Contracting, and Patriot Products, all located along Hudson Street and R J Parkway.

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, as the development of the general vicinity has demonstrated that various Industrial Business Development uses can operate from lots smaller than five acres in size. In fact, most of the lots within the Johnson Industrial Park and Hudson

Commercial Park are developed and effectively operating on 1.5-2.5 acres. Moreover, petitioner currently shares a 2.72 acre property with another business. Petitioner should address why subdivision of the property into multiple 5 acre, or less, lots is not practical, and why 12.88 acres is necessary. Staff is aware of the approximately 3-3.5 acre wetland area on the subject property; however, approximately 9.5 acres is still, presumably, buildable.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **APPROVAL** of the development standards variance with the following conditions:

- a. Recording of secondary plat for property to include no less than two lots.
- b. One lot shall be permitted to exceed the 5 acre maximum lot size by the equivalent of the wetlands acreage included on the same lot.