

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

December 7, 2016

Members Present:

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

Others Present:

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Julie Spate	Recording Secretary

Call to Order:

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

Approval of Minutes:

Mr. Alsip made a motion to approve the October 5, 2016 minutes. Mr. Barrow seconded the motion. The motion was approved unanimously, 5-0.

Approval of 2017 BZA Calendar

Lynn Gray explained that open door laws require the meeting schedule be published in The Daily Journal prior to January 1 each year. Alex Getchell explained the only change from previous years, is the application deadline has been moved back three days to allow staff additional time to review requests prior to public notice process. A number of recent past applicants have requested to come to BZA prior to Technical Review Committee, so the turnaround time has been abbreviated. Mr. Martin made a motion to approve the 2017 BZA Calendar, as submitted. Rev. Martin seconded the motion. The motion was approved unanimously, 5-0.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

None.

New Business

ZB 2016-11 (UV/V) – Homeview Center of Franklin, Inc.

ZB 2016-12 (V) – Homeview Center of Franklin, Inc.

Mr. Getchell introduced that these two cases have been continued administratively by staff the last two months as requested by the petitioner. The previous continuance requests were timely enough that

staff was able to grant the continuances administratively. He stated the BZA rules and procedures require that after 90 days of inactivity a case could be dismissed by the Board. Mr. Getchell stated that staff chose to offer a continuance recommendation to the board. He stated that about a month ago, a property line dispute or discrepancy arose with one of the involved properties to the south in Homeview's request. There is a gap and overlap on a portion that affects their development and potentially which and how many variances are requested, so staff is recommending an indefinite continuance not to exceed March 1, 2017. He explained the indefinite continuance will prevent the need for multiple notices to the adjacent property owners. It will also give the petitioner the option to be heard at an earlier meeting if they are able to resolve the property line discrepancy prior to March 1.

Ms. Gray confirmed that if they are going to be heard earlier, notice will be given when they come before the Board next. Ms. Gray further explained the guidelines and details for the indefinite continuance. Mr. Barrow queried if this predicament is through no fault of the petitioner. Mr. Getchell confirmed it was not.

Mr. Martin made a motion to indefinitely continue ZB 2016-11 & ZB 2016-12 per staff recommendations. Rev. Martin seconded the motion. The motion passed 4-0; Mr. Alsip abstained.

ZB 2016-15 (UV/V) – O.C. Repair & Fabrication, LLC

Mr. Alsip recused himself due to conflict of interest with the petitioner. Mr. Getchell introduced the case, a use and developmental standards variance request from O.C. Repair & Fabrication. The subject property is located on the southeast corner of Earlywood Drive & Hudson Street. It is 12.88 acres and zoned IBD (Industrial Business Development). The Comprehensive Plan designates this area as a business development area. The details of the request are that the use variance is to allow a truck sales and service center in the IBD zoning district and the developmental standards variance is to allow the maximum lot size to exceed five acres in the IBD district. The petition was filed and notice given in a timely manner and is ready for the Board's consideration and action.

Owner Gary Christie explained that his current location is not compatible with the future plans for the area. His desire is to move to the new location as a better fit for his type of business. Mr. Holmes asked the presenter to explain the business and respond to the five criteria. The business is primarily commercial transportation, maintenance and repair.

Mr. Christie continued by addressing the criteria for the use variance:

General welfare – There has never been any health or environmental issues in the past, hazardous fluids are contained, everything is maintained inside the building and all repairs are OSHA approved.

Adjacent property – There will be no effect to adjacent property as they are similar to surrounding businesses and can even provide support for them.

Peculiar situation – They desire to move from the gateway corridor to an area more suitable for their business type.

Unnecessary hardship – There is not a classification for his type of business at the current location.

Comprehensive plan – A move to a location more suitable is a fit for the Comprehensive Plan.

Mr. Christie addressed the statutory criteria for the developmental standards variance:

General welfare – Semi truck trailer combinations are in excess of 75' combined length. A larger lot is necessary to be able to turn the vehicles around and provide parking.

Adjacent property – The property immediately to the west is similar in nature with their several lots and truck traffic.

Practical difficulty – The owner’s original intention was to have room for expansion as his business grew. A potential wetland has been identified on the northwest corner of the property that will affect where his entrance is located. Mr. Christie has no issue with creating a second lot based on the originally designed expansion area and dividing it into two lots as long as the wetland could be incorporated into one property to exceed the five acre maximum.

Mr. Holmes opened the public hearing, by asking for any questions or comments from anyone in the audience. No one appeared.

Mr. Holmes asked how the wetland was discovered. Mr. Christie had a reconnaissance report done by Aqua Terra identifying the wetland. He will need to follow up with a delineation report but chose to wait for approval prior to incurring the added expense. Ms. Gray reviewed this to be beyond the city’s jurisdiction.

Mr. Barrow asked what can be done with a wetland. Mr. Getchell responded that with extensive regulations, there is very limited activity that can be done within a wetland. It is approximately a three to three and a half acre area that does not cross over into any other lot.

Mr. Holmes reviewed that between the wetland and room to turn trucks around, the need exists for a larger lot. Mr. Christie added that he may be allowed to add some landscaping within the wetland area which, if so, he intends to do, to make it more visually appealing.

Mr. Getchell presented staff recommendation for approval of the use variance with conditions, as outlined in the staff report. The petitioner stated he is willing to comply with all conditions.

A motion was made for approval of the use variance with staff recommendations by Mr. Martin and a second by Mr. Barrow. The motion passed unanimously, 4-0; Mr. Alsip recused himself.

Mr. Getchell presented staff recommendation of approval for the developmental standards variance with conditions. A.) Recording of a secondary plat for property to include no less than two lots. B.) One lot shall be permitted to exceed the five acre maximum lot size by the equivalent of the wetlands acreage included on the same lot. Mr. Christie verified the conditions to be acceptable. Mr. Getchell further explained the ability this allows the owner to build a second structure in the future, if desired.

Mr. Barrow made a motion to approve the developmental standards variance with staff recommendations. Rev. Martin seconded. The motion passed unanimously, 4-0; Mr. Alsip recused himself.

ZB 2016-16 (V) – Convenience Mart

Mr. Getchell introduced the case. It is a developmental standards variance at 125 N Morton Street for a convenience mart. The applicant is Hamilton Designs, LLC and the property is approximately 0.43 acres. The zoning is MXC (Mixed-use: Community Center) and GW-OL (Gateway Overlay). The Comprehensive Plan designates this as a Business Development area. There are eight developmental standards variances as part of this request:

- 1.) Primary Structure Front Setback 50’ (29.2’ requested)
- 2.) Primary Structure Side Setback 15’ (14.7’ North; 13.8’ East)
- 3.) Accessory Structure Front Setback 50’ (25’ requested)
- 4.) Accessory Structure Location (Dumpster Enclosure in front yard)

- 5.) Accessory Structure Side Setback 5' (Dumpster 0.9' requested)
- 6.) Architectural Standards (Façade Walls – Display Windows)
- 7.) Pedestrian Walkways (Landscaping along walkways connecting to sidewalks)
- 8.) Pedestrian Walkways (Landscaping separating walkway from façade)

The property is located on the north side of Madison Street along US31, and is the site of the old Swifty Gas Station. The request was submitted and noticed in a timely fashion and is ready for your consideration.

Civil Engineer Mike Thompson with Hamilton Designs presented. He stated this was a redevelopment projects and that redevelopment presents challenges with ordinances written for new lots.

Mr. Thompson addressed the decision criteria: General welfare – It is the intent to improve the property and not damage the general welfare in any way. Adjacent property – Property was previously used as a fuel station and they wish to continue to use it as a fuel station. With revitalization of the property it should increase the value of the surrounding properties as well. Practical difficulty – Their current lot was originally two lots when Morton Street came through and took the entire west lot for additional right of way when US 31 was widened, leaving just the east lot. The remaining developable area is a narrow piece of land, which makes the property undevelopable for any use. The previous Swifty concept was to provide only fuel sales, a concept that no longer makes sense. The convenience mart is what makes it viable.

Mr. Thompson went into more detail on the practical difficulties for each variance requested:

- 1.) Primary Structure Front Setback 50' (29.2' requested) – If the 18 or 19 feet were taken away and added back in to the property, it would only be about one or two feet off. The ask is to continue the building straight north with a small bump out to allow people to get in, meet all ADA requirements and have a normal check out station.
- 2.) Primary Structure Side Setback 15' (14.7' North; 13.8' East) – Brick approximately 4" wide is being added. On the east and north sides, the variance requested is only for the width of the brick.

Mr. Thompson then addressed variances 3.), 4.), and 5.) at the same time:

- 3.) Accessory Structure Front Setback 50' (25' requested)
- 4.) Accessory Structure Location (Dumpster Enclosure in front yard)
- 5.) Accessory Structure Side Setback 5' (Dumpster 0.9' requested)

Mr. Thompson stated that through discussions with Joanna Myers, Alex Getchell, and Travis Underhill, it was determined the best place for the dumpster is north of the building, but placed at the face of the building so it's accessible to the trash truck.

- 6.) Architectural Standards (Façade Walls – Display Windows) – Mr. Thompson stated the architect believes the new elevations do meet the 60%. Mr. Getchell clarified it is 60% of the width, not 60% of the face of the façade. Mr. Getchell stated he calculated the windows to be about 53 percent of the front elevation width, and suggested that the petitioner may have been calculating it differently.
- 7.) Pedestrian Walkways (Landscaping along walkways connecting to sidewalks)
- 8.) Pedestrian Walkways (Landscaping separating walkway from façade)

With the current walkway being only 3', once the brick is added, it is no longer even 3' so no longer ADA compliant, so the walkway has to be widened to five feet. He stated, once the walkway was widened to five feet it became very tight to get a car between a car parked at the fuel pump and the newly widened sidewalk across the front of the building. A car can still fit with the current design, but it is tight. Their request is to not be required to put in the additional 5' landscape strip between the building and the sidewalk, which would make it impossible to get a car through that area and would require them to rip out all of the existing sidewalk that they wish to keep.

Mr. Holmes opened the public hearing, by asking for any questions or comments from anyone in the audience. Larry Buck, a neighbor to the property, spoke in support as long as the property line does not come farther onto his driveway. Ms. Gray confirmed that BZA has no authority to change property lines.

Mr. Barrow asked about ingress from both US 31 and Madison. Mr. Thompson confirmed they are not going to modify the entrances in any way, except they will be removing the access to the alley on the north.

Mr. Getchell presented the staff's recommendation for approval with two conditions: a.) Site Development Plan approval required prior to construction and b.) Building exterior shall match the elevations submitted (Exhibit D) with this request. Mr. Thompson confirmed the recommendations and conditions to be acceptable. Rev. Martin made a motion to approve the variances with conditions, per staff recommendations. Mr. Martin seconded. The motion passed unanimously, 5-0.

ZB 2016-17 (V) – Brown Farm

Mr. Getchell introduced the case. It is a developmental standards variance request at 2510 E 200 S for Brown Farm. The applicant is CKW Land Surveying. The parent parcel is 37.85 acres, zoned agricultural and is in the buffer zone. The comprehensive plan designates this area as an agricultural area. The petitioner wishes to subdivide the property, subdividing off two acres from the 38 acres of the parent parcel. Resulting from the subdivision is the requirement for a dedicated 25' right of way. This pushes the front setback of 50' on to the property further. Due to the existing house built in 1920, this would put it 42' from the new dedicated right of way and the 1930 barn would be 22' from the right of way. The petition was filed timely and was notified properly and is ready for consideration.

Ms. Gray queried staff as what triggered the variance, and if it stemmed from the Subdivision of the property. Mr. Getchell stated the ordinance doesn't allow subdivision where it creates an illegal lot split. Since the buildings are within the setback is an illegal split. Ms. Gray asked if 200 S. was a County Road. Mr. Getchell responded that it was and the right of way dedication will actually go to the County, since this property is in the buffer zone.

Greg Cantwell of CKW Land Surveying presented. He stated the owners have asked to subdivide the house site, a two-acre tract, from the farm. General welfare – It will go through the county subdivision process and they will follow all of their procedures. Adjacent property – The site is being kept as is, with the barn going with the home site. The strict application of the ordinance will result in a practical difficulty, as it would be hard to move the house and the barn if the setback variance is not granted.

Mr. Holmes opened the public hearing, by asking for any questions or comments from anyone in the audience. No one appeared.

Mr. Getchell presented staff recommendation of approval with two conditions. 1.) 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. 2.) 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. Mr. Cantwell confirmed the conditions are acceptable to the petitioner.

Mr. Martin made a motion for approval with staff recommendations. Mr. Alsip seconded. The motion passed unanimously, 5-0.

Other:

None.

Adjournment:

There being no further business, the meeting was adjourned at 7:52 pm.

Respectfully submitted this 6th day of January, 2017.

Tim Holmes, Chairman

Jim Martin, Secretary