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March 15, 2017

**HAND DELIVERED**

Franklin Department of Planning and Engineering  
Attn: Mr. Alex Getchell, Senior Planner  
70 East Monroe Street  
Franklin, IN 46131

**RE: John Wilson  
Use and Developmental Standards Variance Request  
Case No. ZB-2017-\_\_\_\_ (UV/V)**

Dear Alex:

As attorney for the applicant, John Wilson enclosed please find the following:

1. Application
2. Affidavit & Consent of Property Owner
3. Recorded deed for property
4. Filing Fee: \$350.00 for use variance and \$200 for dimensional variance
5. Aerial map.

Per our email exchange of March 14, 2017, I will provide you with a floor plan by no later than March 17, 2017.

**Statement of Intent – USE VARIANCE**

This letter will serve as the Statement of Intent, as required by Article 11 Chapter 3 Section (A)(2) of the City of Franklin Zoning Ordinance (“Zoning Ordinance”) describing the details of the variance being requested and stating how the request is consistent with the required findings of fact and I.C. 36-7-4-918.4.

Article 3, Chapter 3.16(A) of the Zoning Ordinance permits dwellings on upper floors of buildings in the MXD, Mixed-Use: Downtown Center district.

John Wilson is requesting that he be permitted to use part of the first floor of the building located at 40 N. Water Street as a dwelling. The remaining first floor of the building would be used for small or medium-scale retail. The second floor of the building would also be used for his single-family dwelling, as permitted under the Zoning Ordinance. John Wilson's family will be the only persons living in the first and second floors of the building.

John Wilson has a disability that is the result of an injury incurred during his active military service. Because of the disability, his living area must be on the first floor of the building.

#### **Statutory factors**

- a. **General Welfare:** *the approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

Residential uses are permitted on upper floors of buildings in the MXD district. Applicant's use of part of the first floor of the building as his dwelling will not adversely affect the community.

- b. **Adjacent Property:** *the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

Residential uses are permitted on upper floors of buildings in the MXD district. Part of the first floor of the building will still have a commercial use. The allocation of the residential and commercial uses within the building will not affect the adjacent properties in a substantially adverse manner.

John Wilson will invest approximately \$100,000 to renovate the front façade of the building to make it an attractive feature of the neighborhood. He will also invest significant sums in renovating the interior of the building.

Development and occupancy of the property will help to either increase or stabilize property values of property in the surrounding area.

The property located across the street at 49 N. Water Street is currently being used as a single-family residence.

- c. **Condition Peculiar:** *the need for the variance arises from some condition peculiar to the property involved.*

The property served as the headquarters of the Franklin Elks Lodge for more than

25 years. The property was purchased by the current owner in March 2015 and then leased to the Franklin Elks Lodge.

After the lease expired in March 2016, the owner has not been able to lease or sell the building to a buyer for uses that are permitted in the MXD district.

The property is on a small lot of 2,106 square feet, that:

- faces Water Street to the East,
- is adjacent to a narrow alley and building to the South,
- is adjacent to a narrow alley and parking area that is owned by Mutual Building & Loan Assn to the North, and
- abuts a building to the West.

There is no room on the property for parking. In front of the building is a loading zone that cannot be used for parking.

A two-story building that was constructed in 1935 is located on the property.

The building does not have an elevator that provides access to the second floor.

The property is immediately adjacent to the Traditional Neighborhood (RTN) district where single-family dwellings are a permitted use.

- d. **Unnecessary Hardship:** *the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

The MXD district is intended to “provide for the continued viability of the historic central business district;” “accommodate and support the use of existing structures within the downtown” and “permit the continued, contextually appropriate, development of the area through re-use and infill development.”

The property has been vacant for almost one (1) year. In the absence of a variance, the current owner must retain and pay taxes on vacant real estate that cannot be used.

It would constitute an unnecessary hardship to permit more intense commercial and institutional uses on the building’s first floor with secondary dwellings on the second floor, but not a less intense commercial use and primary dwelling unit on the building’s first floor. The property does not have room for parking, and nearby street parking is limited.

John Wilson’s proposed use is in keeping with the overall theme of mixed commercial and residential uses in the MXD district. The proposed use will

provide viability of the historic central business district; accommodate and use an existing vacant structure; and constitutes a contextually appropriate development for the vacant building.

- e. **Comprehensive Plan:** *the approval does not interfere substantially with the comprehensive plan.*

The Comprehensive Plan shows a Downtown use for properties along Jefferson Street, and a Core Residential use for the properties immediately north of the “Downtown” area. The Comprehensive Plan recommends that the Downtown area should serve as a “dynamic activity center” including retailers and upper story residences.

The renovation, development, and mixed commercial and residential use of a long-vacant building will contribute to the downtown’s desired image as a dynamic activity center. Allowing a first floor residence on property where upper story residences are permitted and on property that is adjacent to the Core Residential area will not interfere substantially with the comprehensive plan.

#### **Statement of Intent DEVELOPMENTAL STANDARDS VARIANCE**

This letter will serve as the Statement of Intent, as required by Article 11 Chapter 3 Section (A)(2) of the City of Franklin Zoning Ordinance (“Zoning Ordinance”) describing the details of the variance being requested and stating how the request is consistent with the required findings of fact and I.C. 36-7-4-918.5.

John Wilson seeks a variance from the requirements of the provisions of Article 7, Chapter 7.10 (Part 1)(B) of the Zoning Ordinance to allow less than two (2) off-street parking spaces for every dwelling unit.

Properties in the residential zoning districts are required to have at least two (2) off-street parking spaces for each dwelling unit. Properties in the non-residential districts are required to have two (2) parking spaces for every dwelling unit on-site. Properties in the MXD district are exempt from the Zoning Ordinance’s requirement to have two (2) spaces for every dwelling unit on-site.

If dwelling units were only located on the second floor of 40 N. Water Street, the variance from the parking requirements would not be required. Because John Wilson is seeking a variance to allow a dwelling on the first floor, a variance for parking is also required.

#### **Statutory factors**

- a. **General Welfare:** *the approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

More intensive commercial and institutional uses that require parking are currently permitted on the property.

If the dwelling were located on the second floor instead of the first floor, no variance would be required, and on-street parking would be permitted.

- b. **Adjacent Property:** *the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

More intensive commercial and institutional uses that require parking are currently permitted on the property. The use of part of the first floor as a dwelling will result in a less intensive use of the property than what would otherwise be permitted. Less off-street parking spaces would be required for John Wilson's proposed use of the property.

If the dwelling were located on the second floor instead of the first floor, no variance would be required. The location of a dwelling within the building should have no adverse effect on the adjacent area, because the parking needs would be the same.

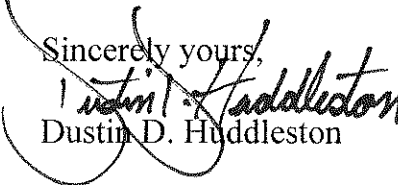
The residential property across the street at 49 N. Water Street has off-street parking spaces on the lot. John Wilson's proposed use will not take away

- c. **Practical Difficulty:** *the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The situation shall not be self-imposed, nor be based on perceived reduction of, or restriction on economic gain.*

There is no room for parking on the property. The property is surrounded by a narrow alley to the south; a building to the west; an alley and parking area that it does not own to the north, and a public street to the east.

Properties in the MXD district are exempt from the Zoning Ordinance's requirement to have two (2) spaces for every dwelling unit on-site.

Thank you for your attention in this matter. If you have any questions, please contact me.

Sincerely yours,  
  
Dustin D. Huddleston

DDH/mm  
Enclosures