



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › www.franklin.in.gov/planning

BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, AICP, Senior Planner
Date: May 30, 2017
Re: Cases ZB 2017-06 (V) | 125 W. Adams St.

REQUESTS:

Case ZB 2017-06 (V)...Keller | 125 W. Adams St.

A request for consideration of a developmental standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 3, to allow an Accessory Structure (new detached garage) to encroach into the required 5 foot side yard setback, in the RTN: Residential Traditional Neighborhood zoning district. The subject property is located at 125 W. Adams 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:

Project Overview

1. Sherry Keller, petitioner and owner of the residence at 125 W. Adams St., is proposing to construct a new detached garage, 24' x 24', at the back of her property, with access from the alley. [See [Exhibit A](#)]
2. The subject property fronts onto W. Adams St. and vehicular access is provided by an alley running along the south property line. [See [Exhibits B & C: Aerial Photos](#)]
3. According to a Survivorship Affidavit, Inst. No. 2016-021608, and the included legal description, Ms. Keller's property is only thirty (30) feet in width.

Side Yard Setback Variance

4. *Petitioner is requesting relief from the accessory structure minimum side yard setback requirement, to allow a new structure to be located one (1) foot from the west property line. Petitioner states it would be the same distance from the side property line as a former structure was previously located.*
5. According to online Assessor records, the former 22' x 24' structure was constructed in 1950; however, staff is unaware when it was demolished, as historical aerial photography does not show a garage from 2006 to present. When the structure was demolished, the legal nonconforming status expired and any new structure is now required to meet the current Zoning Ordinance standards.
6. According to the City of Franklin Zoning Ordinance, Article 7, Chapter 3, properties in the RTN: Residential Traditional Neighborhood zoning district are required to have a minimum side & rear yard setback of 5 feet for accessory structures.

Comprehensive Plan & Zoning Ordinance

7. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area 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.”
8. 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.
9. 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.
10. 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: Single-family Residential South: Single-family Residential East: Single-family Residential West: Single-family Residential
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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:

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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 variance will be injurious to the public health, safety or general welfare of the community. While the proposed structure would be only one foot from the west property line, there are many other occurrences in the same zoning district, and general vicinity, of accessory structures and garages that were placed a similar distance, decades ago, due to the narrow lot widths; therefore, the proposal is not out of character for the general vicinity nor the zoning district. Furthermore, petitioners are proposing for the garage to be located 11 feet from the alley; therefore, vehicles will not be blindly maneuvering / backing out of the garage and directly into the alley.

- 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, as detached garages, located on alleys and close to property lines, are common throughout the RTN zoning district on narrow residential lots. Moreover, approval of the proposal will not substantially alter the character of the general vicinity, nor will it be contrary to the character of nearby properties utilizing the same alley.

- 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:

Staff finds the strict application of the ordinance will result in a practical difficulty, as the petitioner's property is only thirty feet in total width. Additionally, it is not possible for the petitioner to construct the proposed accessory structure, a typical-sized detached garage, on her property without encroaching into one or both side yard setbacks. Furthermore, staff finds it is not practical to strictly require the new structure to meet the setbacks, when other detached garages in the same zoning district, and within close proximity, have long benefitted from side yard setbacks less than five feet.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **APPROVAL** with the following conditions:

- All applicable permits and approvals shall be obtained prior to construction, including, but not limited to, an Improvement Location Permit for the new structure.