



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, AICP, Senior Planner I
Date: June 1, 2017
Re: Case ZB 2017-09 (UV) | 1085 Eastview Drive

REQUESTS:

Case ZB 2017-09 (UV): A request to allow a variance of use from Article 3, Chapter 21, for a Truck Sales and Service Center, in the IBD: Industrial, business development zoning district. The property is located at 1085 Eastview Drive and is within the City of Franklin Extraterritorial “Buffer Zone” Area.

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. Petitioner received BZA Use Variance approval (ZB 2016-15) to operate the same proposed Truck Sales and Service Center for a property located on the southeast corner of the intersection of Earlywood Drive and Hudson St. Petitioner has abandoned those plans and is seeking the subject location as a temporary location for their business. [See [Exhibit A: ZB 2016-15 Findings of Fact](#)]
4. *Petitioner anticipates the business will only operate at the subject property for 12 months or less.*

5. According to the petitioner, they are working on a contract with the property owner, to use the east half of the existing building and the existing gravel parking lot to the east of the building.
6. Petitioner stated they are pursuing occupancy of the west half of the building, too, should the current tenant leave and the space become available; therefore, *petitioner is requesting the BZA's consideration to approve the use variance for the entire building and for the gravel lot east of the building.*
7. 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."
8. 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.*
9. 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

10. 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.
11. 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.
12. 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.
13. The subject property currently has a few legal non-conforming site features, which include:
 - a. Non-conforming gravel parking/interior drive surface;
 - b. Lack of landscaping;
 - c. Non-conforming front setback (existing building is 40'; requirement is 50')
14. Petitioner has indicated a maximum of five (5) employees on the largest shift, two of which drive take-home business vehicles.
15. Online assessor's records indicate the entire building is 5688 sq. ft.; therefore, 28 parking spaces would be required for the repair facility, plus five (5) employee parking spaces.

16. Petitioner is proposing all parking to be located east of the building in the legal non-conforming gravel parking lot, with employees and customers parking on the concrete surfaces in the same area.

Comprehensive Plan

17. 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

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. According to Article 11.3 (G.), Limitations: 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.

Surrounding Zoning:

North: IBD, Industrial: Business Development
South: IBD, Industrial: Business Development
East: IBD, Industrial: Business Development
West: IG, Industrial: General

Surrounding Land Use:

North: RMS (Reed Manufacturing Services)
Crossroads Recycling Scrap Yard
South: Agriculture crop field
East: RV Rental
West: United Pipe & Steel Corp.

ZB 2017-09 (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:

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 and other permitted uses in the same zoning district, such as: boat/RV storage, contractor’s warehouse/storage facility, and light industrial distribution facilities. 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, and similar to the previous use of the same property that included tractor trailer storage. 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 has recently been used for a similar tractor trailer storage use, and the proposed use is similar in nature to other permitted in the same district, such as contractor storage yards and boat/RV storage facilities (outdoor). 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, and from other IBD zoned properties throughout the City 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** with the following conditions:

- a. Approval includes use of the entire existing building at 1085 Eastview Drive and all of the existing legal non-conforming parking areas for a time period not to exceed 12 months from date of approval.
- b. Continuation of the approved use beyond 12 months from the date of approval, or expansion beyond the existing building and non-conforming parking areas, shall require separate review and approval by the Board of Zoning Appeals.
- c. All applicable Federal/State/Local permits/approvals shall be obtained, including but not limited to (if applicable): building permits, sign permits, etc.
- d. The primary business shall be the repair of trucks and trailers.
- e. There shall be only occasional sales of parts and trucks that are due to non-payment of repairs.
- f. All oils and lubricants are contained within tanks and not discharged on the premises.
- g. All repairs shall be done completely within the building.