



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
Date: May 31, 2017
Re: Cases ZB 2017-08 (V) | Emmanuel Church

REQUESTS:

Case ZB 2017-08 (V)...Emmanuel Church | Homestead Blvd.

A request for consideration of a developmental standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 16, to allow an unlisted tree species to be planted instead of a Qualifying Broad Leaf / Deciduous tree as a Buffer Yard tree, in a PUD: Planned Unit Development / RR: Rural Residential-pending zoning district. The subject property is located at the southeast corner of Eastview Drive and Homestead Blvd.

PURPOSE OF STANDARD:

The "RR", Residential: Rural zoning district is intended to provide areas for a mixture of agricultural and residential land uses. This mixture is intended to promote and maintain agricultural operations, while also allowing increased development in areas adjacent to developed infrastructure. This district should be used to provide unique, rural housing options and the future ability to extend urban infrastructure.

CONSIDERATIONS:

Project Overview

1. Emmanuel Church of Greenwood, Inc., petitioner, has submitted Plan Commission related proposals to rezone, replat and develop the 14.164 acre property southeast of the intersection of Eastview Drive and Homestead Boulevard as a church.
2. The subject property is currently zoned PUD and is platted for 23 residential lots, each at least 0.33 acre in size; Petitioner has submitted the appropriate applications to rezone the property from PUD to RR: Rural Residential, to replat from 23 lots to 1, and has received approval of several waivers from the Plan Commission.
3. Petitioner has submitted Site Development Plans for the proposed church [See [Exhibit A: Site Plans](#)].
4. The proposed Site Development Plans have been reviewed by the entire Technical Review Committee, with comments provided and plan revisions having already been resubmitted and approved. Site Development Plan approval cannot be completed without BZA approval of the above listed variance, or conformance with the development standards.

Buffer Yard Tree Species

5. *Petitioner is requesting a variance from the Qualifying Broadleaf / Deciduous Tree Species table, to be permitted to use an unlisted tree species as a Buffer Yard tree along the south property line.* [[Exhibit B](#)]
6. Upon review of petitioner's Site Development Plan submittals, Duke Energy informed the petitioners that a tree species with a mature height greater than 15 feet would not be allowed along the south property, as Duke Energy owns power poles / lines and a utility easement for the length of the property.

7. According to the petitioner, none of the listed Qualifying Broadleaf / Deciduous Tree species in the City of Franklin Zoning Ordinance meet Duke Energy's requirements for height.
8. Petitioner inquired with Duke Energy on several tree species before landing on a *red jade crabapple* that met the 15 feet mature height maximum.
9. During research of the proposed *red jade crabapple* tree request, staff became aware the proposed species had less than ideal disease resistance qualities. Staff then researched other crabapple species which still met Duke Energy's height requirement and had stronger disease resistance qualities. Staff inquired with petitioners and Duke Energy if three different crabapple species would be acceptable, instead. [See [Exhibit C: J. Frank Schmidt & Son Co. Chart](#)]
10. Staff, petitioners, and Duke Energy have agreed on the *Coralburst® crabapple* as the best under-15-feet-mature-height tree species for the Board to consider for the variance request. [[Exhibit D: Duke Approval](#)]

Buffering and Screening Standards

11. According to the City of Franklin Zoning Ordinance, Article 7, Chapter 17, the developer or owner of the property being developed is responsible for providing a Buffer Yard Type 1, at the time of that development or change, when the development occurs on an RR: Rural Residential zoned property that abuts an RS-1: Residential Suburban One zoned property, and a Buffer Yard Type 2, when the development abuts an RM: Residential Multi-family zoned property.
12. According to Article 7, Chapter 17, the required buffer yards shall be installed despite the presence of streets, alleys, streams and other features separating property lines in conflicting zoning district.
13. According to Article 7, Chapter 17, a Buffer Yard Type 1 shall include a minimum setback of 10 feet, in addition to the yard setback, and one (1) qualifying broad-leaf deciduous canopy tree shall be planted in the buffer yard for every 30 feet of boundary between the properties.
14. According to Article 7, Chapter 17, a Buffer Yard Type 2 shall include a minimum setback of 20 feet, in addition to the yard setback, and one (1) qualifying broad-leaf deciduous canopy tree or two (2) evergreen conifers shall be planted in the buffer yard for every 25 feet of boundary between the properties.
15. Petitioner's property abuts 590 linear feet of RS-1 zoned property and abuts 632 linear feet of RM zoned property along the petitioner's south property line; therefore, **a minimum of forty-five (20 & 25 respectively) broad-leaf deciduous canopy trees are required** to be provided along the south side of the property.
16. *Petitioners are proposing to plant all forty-five (45) required buffer yard trees along the south property line with the Coralburst® crabapple tree species.*
17. The Coralburst® crabapple is NOT listed as a qualifying broadleaf / deciduous tree.
18. According the J. Frank Schmidt & Son Co. [See [Exhibit D: J. Frank Schmidt & Son Co. Chart](#)], the Coralburst® crabapple (*malus* 'Coralcole') is slow growing and forms a very dense, symmetrically rounded head. The Coralburst® will mature to 15 feet in height and width, with dark green foliage, coral pink buds, and double rose-pink colored flowers.

Comprehensive Plan & Zoning Ordinance

19. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Large-Lot Suburban Residential. "Large-lot suburban residential areas are intended to include primarily single family detached residences. Other uses in small-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from small-lot suburban residential areas by their comparatively larger lot size and setbacks and lower density. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood."

20. 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.
21. 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.
22. The surrounding zoning and land uses are as follows:
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|---|---------------------------------------|
| Surrounding Zoning: | Surrounding Land Use: |
| North: PUD: Planned Unit Development | North: Single-family Residential |
| South: RM: Residential, Multi-Family | South: Traditions Townhomes |
| RS-1: Residential, Suburban One | Agricultural field |
| East: RSN: Residential, Suburban Neighborhood | East: Hillview Country Club |
| West: IN: Institutional | West: Needham/Webb Elementary Schools |

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:

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 the approval of the proposed variance will not be injurious to the public health, safety or general welfare of the community. While the proposed Coralburst® crabapple trees will not grow to the height and size of trees on the Qualifying Broadleaf / Deciduous Tree list, the proposed trees will form a dense canopy up to 15 feet in height & width, and are very disease resistant to scab, fireblight, cedar-apple rust, and mildew. Coralburst® crabapple trees are also grown best in USDA Plant Hardiness Zones 3-8, with Franklin located in Zone 6a (-10° to -5° F). Approval of the proposed variance will balance the need to provide safe and reliable electrical service with the need to buffer existing land uses from potential nuisance activities; therefore, staff finds approval will not be injurious to the general welfare in any way.

- 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 the petitioners are still proposing to provide all of the trees required for the buffer yard, and the species proposed will form a dense canopy and will be very resistant to disease and mildew. While the proposed trees will not grow to the height and size of qualifying trees, approval of this variance will balance the need to provide safe and reliable electrical service with the need to buffer existing land uses from potential nuisance activities.

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. The petitioners are required to provide Buffer Yards (Type 1 & 2) along the south property line; however, since Duke Energy has a utility easement and power poles / lines along the same property line, Duke Energy's policy is to not allow the petitioners to plant a species of tree in that area that grows taller than 15 feet in height at maturity. Duke Energy has informed the petitioners that none of the trees listed on the City of Franklin's Qualifying Broadleaf / Deciduous Tree table meet their 15 feet mature height maximum requirement; therefore, petitioners have been forced to propose an unlisted tree species for the required buffer yard plantings.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- a. Approval is limited to the Coralburst® Crabapple (*malus* 'Coralcole') species.
- b. Coralburst® Crabapple (*malus* 'Coralcole') species trees shall only count as a qualifying tree for the Buffer Yards, Type 1 & 2, along the south property line of the subject 14.164 acre property.
- c. The owner of the property shall be responsible for the continuous proper maintenance of the approved buffer yard landscaping materials, and shall keep them free from refuse and debris and in good repair at all times.
- d. All unhealthy or dead plant material shall be replaced by the end of the next planting season.
- e. The tree species approved to fulfill the requirements of Buffer Yards along the south property line may not be pruned or otherwise treated so as to reduce overall height or level of opacity. Pruning, limbing-up, topping, and other inhibiting measures, including removal, may only be practiced to insure the public safety or to preserve the relative health of the tree involved.