

## **MINUTES**

### **City of Franklin, Indiana BOARD OF ZONING APPEALS**

**August 2, 2017**

#### **Members Present**

Tim Holmes  
Phil Barrow  
Jim Martin  
Brian Alsip  
Richard Martin

Chairman  
Vice Chairman  
Secretary  
Member  
Member

#### **Others Present**

Alex Getchell  
Joanna Myers  
Lynn Gray  
Julie Spate

Senior Planner  
Senior Planner  
Legal Counsel  
Recording Secretary

#### **Call to Order**

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

#### **Approval of Minutes**

Brian Alsip made a motion to approve the July 5, 2017 minutes. Jim Martin seconded the motion. The minutes were approved, 5-0.

#### **Swearing In**

Lynn Gray identified the two specific requests for the first case that are being considered by the Board at the meeting, and stated the discussion was not about whether a hotel is permitted, as a hotel has been a permitted use at the property going back as far as 1985, and possibly even 1978. Ms. Gray also reviewed the time constraints and proceedings for the evening. Pursuant to the rules and procedures, petitioners will have 20 minutes to make their presentation. Remonstrators, those persons who have objections to the request, will have 20 minutes to address the petitioners' requests. Then, 10 minutes for those persons identified as interested parties or persons who are not necessarily opposed to the petition to make presentations to the Board. Ms. Gray swore en masse anyone planning to speak. Ms. Gray asked if anyone had any questions about the procedure. No one came forward.

#### **Old Business**

None.

#### **New Business**

##### **ZB 2017-10 (V) – Fairfield Inn & Suites**

Alex Getchell introduced the case. He stated notification was completed appropriately in a timely manner. The case is two developmental standards variance requests by Fairfield Inn & Suites. Greg Ilko from CrossRoad Engineers was their presenting agent. The property is located at the southwest corner

of the St. Andrews Drive and Paris Drive intersection, just north of the new Paris Drive roundabout. It is approximately 11.6 acres, zoned Mixed Use Regional Center (MXR) and in the Gateway Overlay District. The Comprehensive Plan designates this area to be Regional Activity Center. The first request is to exceed the maximum primary structure height of 45' in the MXR district. The applicant requested 53'4" for a maximum height. The second developmental standards variance request is to utilize EIFS as the exterior material in the Gateway Overlay District as it is a non-listed material for that district.

Ms. Gray identified all exhibits and letters of support, concern, and opposition submitted for this case, including: Lancer Letter, Gannon Letter, Goad Letter, Wertz Letter, Treibic Letter, Bajdek Letter, Tumey letter, Bowsher letter, Davis letter, Heuchan letter, Dowden exhibits, Dan Davis letter, and David Dowden submitted a letter from Brian Davenport and petitions signed by individuals before the meeting.

Greg Ilko of CrossRoad Engineers presented on behalf of the owners of the property, JART Properties, Inc., and the developer of the project, Hotel Development Services, Inc. He reviewed both variances being sought, the location, adjacent land uses and zoning districts, and history of the project to this point.

Mr. Ilko stated that the additional height is not required to build a four-story hotel as one can be built at 45' high. He stated the additional height is needed solely for architectural features, as the additional height is parapet wall serving as inundations and variations to the façade and screening the rooftop mechanical equipment. He stated the tallest point is in the middle front of the building, at 53'-4". The end caps, or "towers," on each end of the building are 49', and the highest point in the rear is 50'-8". The majority of the building is at 48'-8", which is only 3'-8" taller than allowed.

Mr. Ilko offered comparisons on height allowances in similar zonings for the county and including Greenwood. He pointed out the 20'-30' existing tree line providing some screening between the residential and commercial areas and reviewed line of sight exhibits. Mr. Ilko demonstrated the existing tree line offers some screening but the additional height does not create a new privacy issue, comparing what is visible from each level of the proposed hotel. He restated the additional height is all parapet wall and because of that it will not create a new privacy issue.

Mr. Ilko presented the EIFS material request with exhibits highlighting which portions of the building would be EIFS. There are some projections on the building that prohibit the laying of brick or concrete siding board, from a constructability standpoint. He stated most hotels now use EIFS because of the architectural variations required.

David Wespiser from Hotel Development Services offered a brief overview of their company and highlighted a similar project in Chillicothe, Ohio. He stated the parapets are designed to hide the mechanical equipment on the roof.

Mr. Ilko reviewed the decision criteria. He adopted staff's findings for the EIFS. He further responded to the decision criteria for the height variance:

General Welfare – Mr. Ilko stated the variance would not allow for a four-story construction, because a four-story building can already be built at 45 feet. He stated the variance allows for the screening of the rooftop mechanical equipment, along with additional interest and architectural variation to the building. Mr. Ilko stated he believes the city wants this quality of hotel.

Adjacent Property – Mr. Ilko stated the property has been zoned commercially for decades. He stated the egress to the single-family neighborhood is less than a quarter mile from the Interstate 65 interchange. The additional 8'-4" height for parapet wall will not substantially effect the use or value of the adjacent homes. The neighboring businesses will benefit greatly.

Practical Difficulty – Mr. Ilko stated the ordinance states that mechanical equipment can be 10' taller than the permitted 45' building height; however, since the property is in the Gateway Overlay District, all mechanical equipment is required to be screened. He stated there are conflicting definitions related to maximum height and roof; the ordinance states the maximum height is the measurement from ground level next to the building up to the tallest point of the building. He stated the definition for roof, from Webster's Dictionary, is the external upper covering of a building, which they are at 46'-6" at that height.

Mr. Ilko also referenced I-65 Development Plan points that support the project and provide further conflict between all the required guidelines. He read portions of the plan: "This does not mean that a strict set of design standards must be adhered to in order to meet development requirements"; "Franklin needs to be careful not to place overwhelming design requirements on the area which are not supported by market driven factors"; and "Three to five story structures with high quality materials and unique architectural features should be encouraged."

Mr. Holmes opened the public hearing by asking for anyone who wished to speak for or against the request.

Ken Kosky, director of Johnson County Tourism, spoke in favor of the hotel. Mr. Kosky stated he often hears in his travels that Johnson County lacks quality hotels.

Fairway Lakes Resident Mitzi Martin remonstrated. She appealed for the Board to not waiver from the zoning regulations in place. Ms. Martin stated the architectural standards in place were thought through by many in attendance today. She stated this is new construction, not fixing something that is broken. She is in full support of a hotel at the gateway to the city, but not with the two variances requested. She stated the hotel should fit with the expectations of those who thought through the standards in recent years. Ms. Martin stated the residents in the homes behind the proposed hotel live in their back yards.

Ms. Martin, as a former teacher and lawyer, commended city planners and their work on staff recommendations. She stated the staff report originally recommended against both requests, but then changed after petitioners revised the building material to 62 percent EIFS. Ms. Martin cited the staff report, which said the Board has never approved a variance for greater than 30 percent EIFS. She urged the Board to deny the requests.

Ms. Martin addressed the height variance. She stated the ordinance says 45 feet. She stated 45 feet is 45 feet; if you can do it by 45 feet, as the petitioner stated, than do it.

Ms. Martin stated the city lack quality hotels, but stated the city also has a shortage of quality modern city neighborhoods that draw premium homeowners, taxpayers and significant contributors to the city. Paris Estates has been that neighborhood for 25 years. She believes this hotel with these variances is not consistent with the ordinances.

Mr. Alsip asked the chair to increase the time by 15 minutes. Mr. Barrow asked to wait out the remaining 11 minutes and see what is needed. Mr. Holmes directed to wait out the 11 remaining minutes and determine what is needed after that time.

Dave Dowden stated he lives in the home with the swimming pool that was shown by the petitioner, earlier. Mr. Dowden remonstrated for reasons of privacy, quality of life and property value. He stated the hotel, at 45 feet or 53 feet tall, will dominate their view out their back door for as long as they live there. He asked the Board to protect their investment. He stated he's not trying to stop a hotel and would not speak against a hotel proposed on the other side of Paris Drive. He stated the homes in Paris Estates combine to value approximately \$16 million. He stated they expected some commercial, but never expected three-story apartments or a four-story hotel. Mr. Dowden asked the Board, again, to protect their investments.

Tom Goin, resident of Fairway Lakes, asked for lights to not dome in to their subdivision.

Mike Pickett, resident of Fairway Lakes, asked what covers the mechanicals on the back side of the hotel.

Bob Hassman remonstrated against the hotel location as Greenwood is an easier, quicker location for visitors to the high school.

Laurie King, resident of Fairway Lakes, asked if there is opportunity to do another prototype.

Mayor Steve Barnett spoke in support of the hotel and reported that Franklin does have adequate fire protection for it. Mayor Barnett also explained that there is only talk at this time of another hotel across the street, but there has been nothing in writing, only discussions.

Keith Fox, Franklin City Council President and Redevelopment Commission member, spoke in full support of the hotel project. He stated this project is the first fruit of the newly revived I-65 Interchange and eastside gateway. He stated the variances should not be a stumbling block for the project.

Jay Goad, former Redevelopment Commission member and resident of Fairway Lakes, spoke in support of the variance requests. He had opportunity to be in a similar community on the northeast side of Louisville and found their retail, hotel and residential neighborhood directly behind the hotel to all blend together very nicely. He is not worried about his property value or the character of Fairway Lakes.

Todd Bemis highlighted the opening of the Garment Factory in 2018 and anticipated groups of 500-1000 people a week coming to the city of Franklin. Customers are currently booking in Greenwood and Taylorsville. He supports the hotel.

Ken Austin, City Councilman and member of Franklin Economic Development Commission, spoke in full support of the project.

Bob Heuchan, resident of Fairway Lakes and member of Franklin Redevelopment Commission, disclaimed that the bank he works for has business with the Richardsons but is not involved in the hotel project. He spoke in favor of the hotel project with requested variances. He is not concerned that his property value will decline, and in fact, thinks it stands to increase.

Kyle Kasting, resident of Fairway Lakes, addressed the EIFS variance request. He stated he is in support of the project and stated his house is 85% EIFS and was approved by the Fairway Lakes neighborhood association architectural committee when it was built.

Mr. Westpiser explained that the hotel companies reinvent themselves every few years, identifying them as generations. He stated this prototype is the current generation for the Marriott Fairfield Inn.

Mr. Ilko explained that on the issue of the height, by reading the staff report, staff appears to be on the fence and unsure, and is leaving it to the petitioner to argue for the height variance. With regards to lighting ordinances will be followed to the letter. Mr. Ilko referenced the four recommended conditions in the staff report and stated they are in agreement with the conditions. He stated the 40' buffer between parking lot and property line, all existing trees and mounding will remain and maintained, specifically on the north side. There is a rear parapet at 5'-8" that screens in the back. He expressed that variance approvals are not precedent setters and are considered and granted only on a case by case basis.

Mr. Alsip asked what the percentage of EIFS is in the current generation of the Fairfield model. Mr. Westpiser explained the prototype has 95%, but the cantilevering makes brick difficult, so they have gone from 95% to 62%. Mr. Alsip followed up if this is an economic decision. Mr. Westpiser wasn't able to say it is actually cheaper than brick and stated it is often the same in many markets. Mr. Alsip asked if EIFS is any more flammable than any other materials. Mr. Ilko cited that it has flammable qualities but it is industry standard and it has construction features, safe to use in building construction. He stated discussions have been held with the fire department.

Richard Martin asked if the fire department can fight fires in a four-story building. Mr. Ilko assured the Fire Department said they could. Chief Dan McElyea explained that no matter the height of the building, it is how they fight the fire, not whether or not they can.

Mr. Alsip sought confirmation that everything about the ordinance approved height is architectural in nature. He also asked what the height of the top of the fourth floor windows are in the back. Mr. Ilko state the top of the windows in the back would be 40'-9 ¾". Mr. Alsip further asked if there have been studies done on what a large building does to the value of area residential properties. Mr. Ilko was not aware of any. Mr. Holmes closed the public hearing.

Mr. Getchell stated, based on the information presented this evening staff recommends approval of both variances with the following conditions:

1. EIFS must not exceed 62 percent of the exterior material of the building.
2. All existing trees and mounding that are located on the subject property, specifically along the north property boundary, must remain and be maintained in accordance with Article 7, Chapter 16, Subsection C, Landscaping Maintenance Requirements of the City of Franklin Zoning Ordinance.
3. Petitioner shall provide a Buffer Yard at least 40 feet in width along the north property line, as shown on the variance request site plan submitted with the application. Buffer yard plantings shall be equivalent to a Buffer Yard Type 2.
4. All signage on the north façade, which is installed at a height greater than 45 feet from adjacent grade, must be non-illuminated.

Mr. Ilko accepted the conditions. Mr. Barrow asked if the 40' width included the building or the parking lot alone. Mr. Getchell confirmed per zoning ordinance that parking lots and interior drives cannot be within the buffer yard.

Mr. Martin made a motion to approve the height variance with staff recommended conditions. Mr. Barrow seconded the motion. The motion passed unanimously, 5-0.

Mr. Martin made a motion to approve the exterior building material variance with all of staff's recommendations. Rev. Martin seconded. The motion passed unanimously, 5-0.

**ZB 2017-13 (SE) – Singh is King, Inc.**

Mr. Getchell presented this case for a special exception by Singh is King, Inc. at 1025 Johnson Avenue. The property is 3.05 acres and is zoned IG for Industrial General. The Comprehensive Plan calls for this area to be manufacturing. The request is for a truck sales and service center use, specifically in this case a tractor trailer repair and service business. The request was properly notified and is ready for the Board's consideration and action.

David Baxter with LandTree Realtors in Greenwood, Indiana, presented on behalf of his client, Singh is King. Mr. Baxter explained his client's business and desire to work not only on his own fleet of trucks but for the general public as well. With the industry in this area, Mr. Baxter deemed it an appropriate location for this business. Mr. Baxter addressed the decision criteria:

General Welfare -- It's not going to become a junkyard or tractor trailer disposal. It will be kept neat and clean. The Phase One audit came back clean. He stated they plan to work on the existing building to allow for tractor trailer maneuvering the property. They are within 10-20 days of closing on the property. Franklin contractor John Blackwell took a look at the building and suggested building a separate building. They seek the exception to allow for Singh to work on others' trucks as well as his own.

Developmental Standards – They agree with the staff's report. And they plan for employee parking to be east of the building.

They agree with staff findings. They request a year's time to comply with all regulations such as asphalt drive. They will put up the privacy fence immediately. The current building will not work as the trailers can't get in the building as is due to how narrow it is. They only do brake work and replacement of tires on the trucks which will be done within the privacy area created by the fence that will be put up as soon as the site is closed on. They will also get estimates on upgrading the current building and/or putting up a second building on the site. Singh is King, Inc. agree with the staff recommendations.

Mr. Holmes opened the public hearing by asking if there was anyone wishing to speak for or against the request. No one came forward.

Ms. Gray sought clarification from the petitioners that this special exception would be granted only to the owner of the property and not run with the land. Mr. Baxter asked if it was possible for it to run with the land. Ms. Gray said that it is not staff's recommendation. Ms. Gray went over the staff conditions:

1. Special exception approval for a truck repair/service center is limited to, and runs with the applicant, Singh is King, Inc., at the subject property.
2. Storage of salvage vehicles and parts, or any other use of the property that meets the definition of a junk yard or scrap metal yard, is strictly prohibited on the property.
3. Petitioner must submit a site plan for review and approval, to ensure the required parking is adequately designed and provided.
4. The legal non-conforming gravel parking can be maintained but is not permitted to expand; any expansion of the parking lot area will require conformance with the zoning ordinance in affect.

5. All tractor-trailer parking must be east of the building.
6. All tractor-trailer repair/service must be completed inside the building.
7. Petitioner must convert the existing gravel entrance drive to a hard surface, either asphalt or concrete, starting from the connection on Johnson Ave., to the gravel parking lot where it begins at the east building foundation line. This requirement shall be interpreted as the minimum required.
8. A minimum of 10 employee parking spaces (9' x 18' in size) must be provided on a hard surface, either asphalt or concrete, onsite, with the appropriate pavement markings.
9. Adequate parking for a minimum of eleven (11) tractor-trailers waiting to be worked-on / picked-up must be provided within a completely enclosed 6-8 foot tall, 100% opaque wood, stone, or masonry fence.
10. Tractor-trailers must be stored inside the enclosed fence or inside the building until they leave the property.

The petitioners, Singh is King, Inc., did agree with all staff recommendations.

Mr. Barrow asked what will happen to the existing building if it is not useable for the business. Mr. Baxter explained that it is a solid building with many I-beams, and the clients said they would use the building. Rev. Martin asked if the I-beams would keep them from being able to expand for the necessary doors. Mr. Baxter said they will have to cross brace the second floor with some different locations for the I-beams so at least one I-beam can be taken out. Joanna Myers explained that any structural changes to the building require state review by the Indiana Department of Homeland Security Plan Review and also require a local building permit be obtained before any structural changes are made to the building.

Mr. Alsip asked what the timeframe is to get the property and buildings useable for the business. Mr. Singh suggested six months. Ms. Gray asked if they will then not be working on vehicles during that time, but Mr. Singh informed they would only work on their own tractor trailers.

Ms. Myers explained that the fence will also need to be part of the site development plan, so the submission of that plan is the first step before installing the fence showing both building and fence locations and details along with whether any of the existing gravel areas are being converted to concrete. Ms. Gray added that this approval is only the first step in the process of a number of things that must happen before Singh is King can work on trucks.

Mr. Holmes asked if he can work on his personal vehicles on the property as is. Mr. Getchell assured he can work on his own personal vehicles immediately; however, for the repair business, he has to meet conditions first. Ms. Myers explained that the visible gravel within the past year is what has been considered the legal non-conforming and is what should not be expanded. Mr. Alsip asked if the current trailers located on the property are on gravel, and Mr. Baxter confirmed they are on gravel and the current owner has some trailers he intends to leave on the property and pay Singh is King rental. Ms. Gray explained that if this is not in accordance with the ordinance and conditions, it is a problem.

Mr. Singh asked how much time they have to meet the conditions. Mr. Holmes suggested a year. Mr. Baxter said six months is fine for all conditions but the pavement would still be a year. Prior to the completion of the six months or the meeting of all conditions except the asphalt, Mr. Singh can only work on his own trucks. Mr. Baxter asked what is required if Mr. Singh were to add a new load of gravel if he needs more parking lot area. Mr. Getchell identified the gravel line to be along the back of the trucks. Mr. Baxter affirmed that they do not have a problem with the existing parking lot as identified and commit to that condition. Ms. Myers added information regarding Franklin's truck route and that patrons of his business would need to follow the truck route.

Mr. Getchell stated staff's recommendation for approval with the previously discussed conditions, but with an additional condition of a one-year completion date for the asphalt entrance drive.

Mr. Barrow made a motion for approval with the staff recommended conditions and the one-year completion for pavement, as recommended by staff. Rev. Martin seconded the motion. The motion passed unanimously, 5-0.

**Other Business**

**Adjournment:**

There being no further business, the meeting was adjourned at 8:15 pm.

Respectfully submitted this 6th day of September, 2017.

---

Tim Holmes, Chairman

---

Jim Martin, Secretary