

## **MINUTES**

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

**January 2, 2019**

#### **Members Present**

Jim Martin  
Phil Barrow  
Richard Martin  
Brian Alsip  
Charlotte Sullivan

Chairman  
Vice Chairman  
Secretary  
Member  
Member

#### **Others Present**

Alex Getchell  
Lynn Gray  
Joanna Myers  
Julie Spate

Senior Planner I  
Legal Counsel  
Senior Planner II  
Recording Secretary

#### **Call to Order**

Jim Martin called the meeting to order at 6:00 pm.

#### **Roll Call & Determination of Quorum**

#### **Election of Officers**

- a. Chairman – Charlotte Sullivan nominated Jim Martin. Phil Barrow seconded and moved to close nominations. Ms. Sullivan seconded the motion to close nominations. Nominations were closed. Mr. Martin was elected Chairman, 4-0. Mr. Martin abstained from the vote.
- b. Vice-Chairman – Brian Alsip nominated Phil Barrow. Ms. Sullivan seconded. Mr. Alsip moved to close nominations. Ms. Sullivan seconded. Nominations were closed. Mr. Barrow was elected Vice-Chairman, 4-0. Mr. Barrow abstained from the vote.
- c. Secretary – Richard Martin nominated Ms. Sullivan. Mr. Alsip seconded and moved to close nominations. Rev. Martin seconded. Nominations were closed. Ms. Sullivan was elected Secretary, 4-0. Ms. Sullivan abstained from the vote.

#### **Appointment of Legal Counsel**

Mr. Barrow made a motion to re-appoint Lynn Gray as Legal Counsel. Ms. Sullivan seconded and moved nominations be closed. Rev. Martin seconded. Nominations were closed. Ms. Gray was reappointed Legal Counsel for the Board of Zoning Appeals.

## **Approval of Minutes**

Ms. Gray pointed out two typos on page 2, second and third paragraphs. Mr. Barrow made a motion to approve the December 5th minutes as amended. Ms. Sullivan seconded the motion. The motion passed, unanimously, 5-0.

## **Swearing In**

Ms. Gray swore en masse anyone planning to speak.

## **Old Business**

### **ZB 2018-18 (SE & V) – Franklin Plaza of Franklin, LLC**

Rev. Martin recused himself due to his membership at First Baptist Church.

Alex Getchell reminded of this special exception and developmental standards variance request by Franklin Plaza of Franklin, LLC, for the property at 201 E. Jefferson Street. The property is approximately 0.238 acres. It is zoned MXD (Mixed Use: Downtown Center). The Comprehensive Plan calls for this area to be Downtown development. The Special Exception is to allow a multi-family dwelling use. Franklin Plaza of Franklin, LLC, is proposing 14 units. The Developmental Standards Variance is to allow for a reduction in the number of parking spaces required. The minimum required for 14 units is 35 parking spaces. Franklin Plaza of Franklin, LLC, was originally proposing 21, but they will be proposing some changes tonight.

Ms. Gray reviewed what happened with regards to this case at the December 2018 meeting. She also instructed that all information presented at the December meeting is still part of the record. Rules of Procedure dictate that the petitioner has 20 minutes to address any additional information as it relates to the petitions tonight. Any interested persons or remonstrators also have 20 minutes and the petitioner has 10 minutes for rebuttal with any new information.

Jeffrey Stratton, representing Franklin Properties of Franklin, LLC, announced the hiring of Paul Maurer. Mr. Maurer surveyed the property and did a parking layout. Franklin Properties of Franklin, LLC also did a redesign of the project. Two buildings make up the property, the sanctuary built in 1885 and the education building on the back built in 1923. Their architects have redrawn for 12 units. They did away with the two one-bedroom basement units. Indoor basement parking has been designed for 10 parking spaces. There are additionally 16 parking spaces designed for behind the building immediately to the east between 201 E. Jefferson Street and the alley off Jefferson Street for a total of 26 parking spaces. Homeland Security would require additional sprinkling and fire retardant measures which they would adhere to.

Ms. Gray asked if the parking spaces would comply with Franklin's ordinance in all other respects. Mr. Stratton responded that they comply with width and length. The only concern is that for the interior basement spaces to be 18 feet in depth, the center turn area would need to be 22 feet instead of the required 24 feet in between the end of each parking space. Landscaping ordinances will also be followed. They also plan to take the deck off the middle building to allow for more green space and a second exterior exit in the side yard.

Ms. Sullivan inquired as to which of three different site plans received was the one currently being reviewed.

Chairman Martin opened the public hearing by asking if there was anyone wishing to speak for or against the requests.

Shari Carr expressed concern over setting a precedent. She asked Alex Getchell for a parking variance study and received the information that three out of the last four were denied. Family and friends visit, and she doesn't want them to be required to park two blocks away. The city lot mentioned for overflow parking is for downtown shops and restaurants. She remains concerned about trash. She asked whether they will asphalt and fence the entire lot. She desires the project go forward but requested the BZA be transparent and always follow the rules.

Pastor Homer Ford of First Baptist Church stated his pleasure in working with Mr. Stratton on this project. He explained that the building no longer serves the ministry needs of their congregation, but they desire to be good stewards of the property. They have been patient with Mr. Stratton and the process as they feel it to be the best possibility for preservation of the historic building and stained glass windows. He asked the board to approve the project.

Teresa McClure is a current member of First Baptist Church and a member of the Transition Committee. She expressed her favor for the nice facility this proposal will create and the good things it will bring to Franklin. Due to the dwindling and aging of their congregation, they cannot fund the upkeep of the building, and it is deteriorating rapidly. She strongly asked the board to approve the project.

No further comments were offered, and the public hearing was closed.

Mr. Stratton responded that trash will be put in a 20' by 20' room with the 30" square containers placed along the inside and back walls. Eight would go against the east wall and four along the north wall. The proposed budget covers the paving of the parking lot, but fencing is not allowed along an alley. Mr. Stratton, except for Christmas week, drove downtown nightly between 6:30-7:30, and the average number of available parking spaces within a block of the church building is 42 and an average of 46 open spaces in the city lot.

Mr. Barrow asked where the trash will be placed when it comes out to the street for pick up. A fixed pick up time will be established during the HOA cleaning company's presence on site as they will care for this. Mr. Barrow asked if the parking spaces will be assigned, and Mr. Stratton assured they will be assigned per unit.

Ms. Gray reviewed the amended petition to now indicate no more than 12 units, there will be a minimum of two off-street parking spaces per unit and the parking lot will be paved. Mr. Stratton confirmed all to be correct.

Mr. Alsip expressed concern over a basement parking garage. With the age of the buildings he wondered if the building structure will support that. Mr. Stratton explained that after testing different parts of the building they know that the existing floor structure is likely more solid than much that is built current day. It is also required to meet load standards. There will be fire retardant requirements and sprinkling. Mr. Alsip reiterated that he is tremendously concerned with converting the basement to a parking garage.

Ms. Sullivan asked if approved and they can't build the underground garage, does the project stop entirely and must they return to BZA. Ms. Gray confirmed that and reviewed again the only specifics before the Board are first a special exception with regards to appropriate use. No vote was taken at the last meeting because no vote could be accomplished on the developmental standards. The second consideration before the Board is developmental standards, the question of how many parking spaces. The petition has now been amended to no more than 12 units and at least parking spaced per units.

Mr. Getchell asked if there were any other unit changes besides the removal of the only two one-bedroom units in the basement, and if they would be keeping the five two-bedroom and seven three-bedroom units as originally proposed. Mr. Stratton assured there are no other unit changes with the exception of second- and third-story landings, where they have gone from 12-foot landings to six-foot. He stated they added a six feet by 20 feet area to the foyer area.

Chairman Martin requested staff's recommendation for the Developmental Standards Variance, first.

Mr. Getchell gave staff's recommendation that if the Board found sufficient evidence to approve the Developmental Standards request, staff recommends the following conditions:

- a. A minimum of two (2) off-street parking spaces are required to be provided per dwelling unit on-site.
- b. The number of off-street parking spaces dedicated specifically for the multi-family use shall determine the number of permitted dwelling units, at a ratio of not less than two (2) parking spaces for every one (1) dwelling unit, rounded down to a whole unit, and not to exceed a maximum of 12 dwelling units. (e.g. 21 parking spaces / 2 = 10 dwelling units)
- c. Prior to issuance of Building Permits for build-out of any one –or more– dwelling unit(s), the minimum required off-site parking for the proposed unit(s) must be secured with a permanent off-site and/or shared parking agreement signed by all involved property owners, and must be recorded by the petitioner in the Johnson County Recorder's Office. A copy of the recorded parking agreement shall be provided to the Department of Planning and Engineering.
- d. Off-site parking must be provided and documented in accordance with the requirements outlined in Article 7, Chapter 10 (C), Off-Site and Shared Parking Requirements of the Zoning Ordinance.
- e. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- f. Garbage containers and/or dumpsters are not permitted to be placed within dedicated parking spaces for the units.

Ms. Gray brought up the petitioner's statement that the parking lot would be paved and asked if that was to be a seventh condition. Mr. Getchell affirmed that to be so. Ms. Gray also reminded that off-site parking does not mean public spaces on the street or in the city parking lot.

Ms. Sullivan made a motion to approve the development standards variance with seven conditions and as amended by the petitioner. Mr. Alsip seconded. The motion passed, 4-0.

Chairman Martin requested staff's recommendation for the Special Exception.

Mr. Getchell gave staff's recommended conditions that if the Board found evidence to approve the Special Exception request, staff recommends the following conditions:

- a. Special Exception approval for a multi-family use shall run with the subject property of 201 E. Jefferson Street.
- b. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

- c. A minimum of two (2) off-street parking spaces are required to be provided per dwelling unit on-site.
- d. The number of off-street parking spaces dedicated specifically for the multi-family use shall determine the number of permitted dwelling units, at a ratio of not less than two (2) parking spaces for every one (1) dwelling unit, rounded down to a whole unit, and not to exceed a maximum of 12 dwelling units. (e.g. 21 parking spaces / 2 = 10 dwelling units)
- e. Prior to issuance of building permits for build-out of any one –or more– dwelling unit(s), the minimum required off-site parking for the proposed unit(s) must be secured with a permanent off-site and/or shared parking agreement signed by all involved property owners, and must be recorded by the petitioner in the Johnson County Recorder’s Office. A copy of the recorded parking agreement shall be provided to the Department of Planning and Engineering.
- f. Off-site parking must be provided and documented in accordance with the requirements outlined in Article 7, Chapter 10 (C), Off-Site and Shared Parking Requirements of the Zoning Ordinance.
- g. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- h. Garbage containers and/or dumpsters shall be properly stored inside the building at 201 E. Jefferson Street, or appropriately located off-site within a dumpster enclosure compliant with the zoning ordinance, and with a shared garbage removal/collection agreement. Garbage is not permitted to be placed to the curb, on the sidewalks, nor within the alleyways or dedicated parking spaces for the units.

Joanna Myers added condition “i” as follows: “Prior to issuance of building permits for any buildout, parking plans shall be submitted and approved, verifying the total number of parking spaces to be provided, consistent with Federal, State, County and local requirements.”

Ms. Sullivan made a motion to approve the Special Exception with the nine conditions recommended by staff. Mr. Alsip seconded the motion. The motion passed, 4-0.

### **New Business**

#### **ZB 2018-19 (SE UV & V) – Scott & Michelle Graham**

Mr. Getchell introduced the Special Exception, Use Variance and three Developmental Standards Variance requests. The properties in question are commonly known as 732 and 750 Hamilton Avenue. The petitioners are Scott and Michelle Graham. The property is approximately 4.5 acres, zoned IG (Industrial: General). The Comprehensive Plan calls for this area to be manufacturing uses.

The first request is a Special Exception to allow inoperable vehicle storage use. This is related to the Graham’s wrecker business. The Use Variance request is to allow an auto repair and body shop use. The first Developmental Standards Variance is to allow inoperable vehicles to be stored in a front yard. The second is to allow inoperable vehicles to not be completely screened by an opaque fence. The third variance request is to allow a fence to be located within a required front set back.

The property is located on the north side of Hamilton Avenue where Premier Ag is currently located and at the intersection with Overstreet Street. Mr. Getchell pointed out the proposed opaque and chain link fencing locations on the property via a PowerPoint slide.

Ms. Gray reminded Findings of Fact must be made on all requests, however the same information can be supportive for all.

Mr. Graham stated their proposal to purchase this property and the agreement they have to do so. He stated their first step is to move their wrecker business out of the downtown to a more suitable location closer to the truck route. They plan to move their body shop in the next two years as well due to the flood situation. If the body shop is moved to the property, the plan is to build a new building would be built where the anhydrous tanks are in the front corner unless another piece of property better suited becomes available. He stated there is an already existing eight-foot chain link fence along the back and west property lines. Mr. Graham stated they would build a complete new privacy fence extending to the gate behind the homes along the property. The driveway would be realigned to be aimed back toward the office building left at the "T" intersection. Permission for an opaque fence surrounding the property is being sought. He stated they have also proposed a 15' set back along Hamilton Avenue. On this property the 50' set back would use too much of the property. Mr. Graham stated fifteen feet of gravel in front of this fence would be taken out and replaced with grass and landscaping. He stated opaque fencing would be installed along the side so no eastbound houses would see anything. Chain link fence would be in front of the Crop Production building office and further back beside the building to tie in with the other fence. They would utilize the main building facing north and south for their office and wrecker shop. The shed on the east property line would be used as open parking for the wreckers. They propose to use at least 100' of the long building across the back and the old fertilizer building they would like demolish. In summary, their variance requests are: 1. To change zoning from IG (Industrial: General) to inoperable vehicle storage. 2. Move the driveway over. 3. Move the fence back in the front.

Mr. Graham stated agreement with all staff findings of fact and requested the Board accept them.

Chairman Martin opened the public hearing by asking if there was anyone wishing to speak for or against the request.

Lynn King, owner with her husband, James King, of the property that backs up to the property being discussed, is concerned about contamination from all the auto fluids in the salvage yard. Mr. Graham responded that they are not a salvage yard but only a wrecker service and body shop. He stated the cars they tow in and impound are only on property 90-120 days before they are sold to a Shelbyville salvage yard. Mr. Graham stated the property has been tested and found clean.

Ms. Gray asked if they would have an Environmental Phase One and Phase Two completed. Mr. Graham stated understanding that Phase One had already been completed and he thought Phase Two as well. He stated there will be a testing well on site for approximately a year. Mr. Graham stated they were inspected by IDEM 10 years ago, and their body shop is considered a conditionally exempt small quantity generator. They only dispose of 40 gallons of paint thinner a year and have a company who disposes of that for them. Ms. Gray added an explanation of Phase One and Phase Two testing.

Rev. Martin sought assurance that they are not a permanent junkyard. Mr. Graham confirmed it would not be a junkyard. Mr. Graham explained their business activities and processes. Ms. Myers further clarified regarding junkyard, stating on the City of Franklin's Land Use Table, there are a number of items listed under Waste Disposal Facility such as incinerator, junkyard, sanitary land fill, refuse dump, transportation and inoperable vehicle storage. The request before the Board is only inoperable vehicle storage. If there would be any change in the future, they would have to come back before the Board.

There being no further questions or comments, Chairman Martin requested staff's recommendation.

Mr. Getchell presented staff's recommendation for approval of the Developmental Standards Variance request with the following conditions:

- a. The gravel strip between the north edge of Hamilton Ave and the proposed fence must be converted to and maintained with grass.
- b. The opaque fence construction must be consistent with the proposed site plan (Exhibit B in the Staff Report), with the fence construction no closer than 15 feet to the edge of the pavement of Hamilton Ave, and the fence must be between six and eight feet in height.

Mr. Graham stated the conditions were acceptable to them. Rev. Martin made a motion for approval with two conditions recommended by staff. Ms. Sullivan seconded the motion. The motion passed, 5-0.

Mr. Getchell presented staff's recommendation for approval of the Special Exception request with the following conditions:

- a. Special Exception approval for inoperable vehicle storage, associated with the wrecker service and auto repair & body shop, shall run with the applicants at the subject property.
- b. The opaque fence construction must be consistent with the proposed site plan (Exhibit B in the staff report), with the fence construction no closer than 15 feet to the edge of pavement of Hamilton Ave, and the fence must be between six and eight feet in height.
- c. The legal non-conforming gravel/stone parking surface can be maintained but is not permitted to expand, without the approval of the Board of Zoning Appeals.
  - i. Expansion of the stone and/or hard surface area within the fenced storage area shall require Site Development Plan Review and approval, if the expansion results in a greater than 25% or 2,000 square foot (whichever is greater) increase in the surface area of the storage area currently available on the property.
- d. A minimum of one parking space must be provided for each employee on the largest shift and for each business vehicle stored on-site.
- e. At least one parking space reserved for disabled persons must be provided, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.

Mr. Graham stated their acceptance of conditions. Mr. Barrow made a motion for approval of the Special Exception with the conditions recommended by staff. Ms. Sullivan seconded the motion. The motion passed 5-0.

Mr. Getchell presented staff's recommendation for approval for the Use Variance request with the following conditions:

- a. Use Variance approval for an auto repair & body shop is limited to, and runs with the applicants, at the subject property.
- b. The opaque fence construction must be consistent with the proposed site plan (Exhibit B in the Staff Report), with the fence construction no closer than 15 feet to the edge of pavement of Hamilton Ave, and the fence must be between six and eight feet in height.
- c. The legal non-conforming gravel/stone parking surface can be maintained but is not permitted to expand, without the approval of the Board of Zoning Appeals.
- d. Expansion of the stone and/or hard surface area within the fenced storage area shall require Site Development Plan Review and approval, if the expansion results in a greater than 25% or 2,000 square

foot (whichever is greater) increase in the surface area of the storage area currently available on the property.

- e. A minimum of one parking space must be provided for each employee on the largest shift, for each business vehicle stored on-site, and for every 200 square feet in the body shop facility.
- f. At least one parking space reserved for disabled persons must be provided, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.

Mr. Graham stated their acceptance of conditions. Rev. Martin made a motion for approval of the Use Variance with the conditions recommended by staff. Ms. Sullivan seconded the motion. The motion passed 5-0

### **Other Business**

### **Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 6th day of March, 2019.

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Jim Martin, Chairman

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Charlotte Sullivan, Secretary