



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: August 1, 2019

Re: Cases ZB 2019-10 (V) | Discover Downtown Franklin

REQUESTS:

Case ZB 2019-10 (V)...Discover Downtown Franklin

A request for consideration of developmental standards variances from the City of Franklin Zoning Ordinance, Article 8, Chapter 3, to allow a public art mural to be painted on the north-facing exterior alley façade wall (12' x 83') and for the mural to be permitted in addition to the signage allowance for the property at 55 1/2 E Court St.. Proposal would exceed the maximum number of signs, maximum area of a wall sign, and maximum total area of signage, in the MXD: Mixed-use Downtown Center zoning district.

PURPOSE OF STANDARD:

The "MXD," Mixed-Use: Downtown Center zoning district is intended to provide for the continued viability of the historic central business district. This district is also intended to accommodate and support the use of existing structures within the downtown. It is further intended to permit the continued, contextually appropriate development of the area through re-use and infill development.

CONSIDERATIONS:

Project Overview

1. Discover Downtown Franklin (DDF), petitioner, is proposing a hand-painted mural, painted directly on the surface of the façade, approximately 12' x 83', at 55 1/2 E. Court St. as part of their Inaugural "Ethos, Celebration of the Arts" festival on Saturday, August 24, 2019.
2. DDF is completing their due diligence for the site selection process, after having chosen the proposed site and mural design. Staff specifically requested DDF not share the proposed design of the mural with staff or the Board, in order to prevent any perception of approval or denial based on specific content. Therefore, DDF is seeking the Board's approval for the size and location of the hand painted mural prior to revealing the design.
3. The subject façade is the north wall of 55 1/2 E Court St, which is the north-facing wall of the alley between the former Pack-n-Ship/A Trophy Business and Benjamin's Coffeehouse. The subject wall currently has several faux store-front windows painted on the brick. [See [Exhibit A: Mural Wall](#)]
4. DDF is requesting approval for the mural to extend across the entire façade, up to 12 feet in height; however, petitioner indicated the actual design will utilize "white space," with the background being painted in a brick-red color to match the building's natural brick color.
5. Petitioner indicated to staff they incorporated the design criteria established by the Johnson County Community Foundation's Color the County Mural Program for this mural design selection.

Discover Downtown Franklin Design Criteria:

- a. Design Content: Successful design is bright, colorful and appealing to both pedestrians and viewers in vehicles. Design should not include logos, phrases or branding for any business, product, good, activity, service or private interest. Since the location is public and visible to viewers of all ages, ethnicities and cultural backgrounds, designs must not include nudity, suggestive poses, hate speech

or imagery that any group might find obscene, offensive or morally shocking. Political, religious or memorial artwork is also unacceptable.

- b. Design Application: Selected designs will be applied using exterior paint and a clear-coat graffiti block directly on the location surfaces. The application method of the design is not limited.
6. Members of the Discover Downtown Franklin Board, the Executive Director of DDF, and members of the Johnson County Community Foundation Color the County Mural Program collaborated in the review and selection of the final design, based on the following considerations:
- i. Artistic quality and strength of concept;
 - ii. Contemporary relevance and appropriateness of our time;
 - iii. Architectural, geographical, socio-cultural and historical context;
 - iv. Originality and uniqueness, and;
 - v. Suitability to the surrounding neighborhood.

Murals defined as Signage

7. According to the City of Franklin Zoning Ordinance, Article 13, Chapter 2, **Sign, Mural** is defined as: “A sign painted onto the side of a building, wall, ground, or structure.”
8. According to the City of Franklin Zoning Ordinance, Article 13, Chapter 2, a **Sign** is defined as: “Any name, identification, description, device, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization, or business. A sign includes the face area which conveys a message, any equipment or sign device, and any related mechanical, electrical, and structural supports and features, such as poles and lighting. In no instance shall this Ordinance be interpreted as considering any flag as a sign”
9. Whereas the proposed mural would be painted onto the surface of the façade of the building the proposal qualifies as “mural sign.”

Sign Standards Variances

10. *Petitioner’s proposal would require variances from the Sign Standards for the MXD: Mixed-use, Downtown Center zoning district, to be permitted the mural in addition to the permitted signage -number of signs and total sign area- for the property, and to exceed the maximum area for a wall sign.*
11. According to the City of Franklin Zoning Ordinance, Article 8, Sign Standards, “The intent of (the Sign Standards) is to further the goals of the Comprehensive Plan; avoid the proliferation of signage; encourage signs to be compatible with the scale of buildings and the surrounding features; maintain and enhance the aesthetic environment of the City; eliminate potential hazards to motorists and pedestrians resulting from signs; and promote the health, safety, and welfare of the residents of Franklin.”
12. According to Article 8, Chapter 1, the area of all signs is calculated by multiplying the maximum vertical dimension by the maximum horizontal dimension of the sign face (“content”) area.
13. According to the City of Franklin Zoning Ordinance, Article 8, Chapter 3, Sign Standards, properties in the MXD: Mixed-use, Downtown Center zoning district are permitted the following permanent signage:
- a. Sign Size/Building Frontage Ratio: 1.5 sq. ft. of sign area per 1 linear foot of building frontage;
 - b. Maximum Total Signage Allowed: 200 sq. ft. (if building frontage allows); Variance Requested
 - c. Maximum Number of Signs: 2; Variance Requested
 - d. Permitted Sign Types: Wall, Awning, Projecting, Changeable Copy, Freestanding, Multi-tenant;
 - e. Maximum Sign Size by type:
 - i. Wall: 100 sq. ft.; Variance Requested
 - ii. Projecting: 50 sq. ft.;
 - iii. Freestanding: 40 sq. ft.; 10 ft. maximum height;
 - iv. Changeable Copy: 32 sq. ft.;
 - v. Multi-Tenant Joint Sign: 20 sq. ft. per tenant, 10 ft. maximum height;
 - vi. Window Signs: Maximum coverage of 25% of total glass area.

Comprehensive Plan

14. The 2013 Comprehensive Plan, Future Land Use Map, identifies this area as Downtown. “Future land use in the downtown area should support the function of the area as a unique focal point and gathering place for the Franklin community. Downtown Franklin should serve the City as a dynamic activity center that includes retailers, professional offices, residences, civic groups, government facilities, restaurants and bars, and service providers. Future land uses in the downtown should contribute to the establishment of an activity center with a mix of land uses which enhance the current community character that the downtown provides.”
15. “The downtown should continue to feature strong relationships with both adjacent neighborhoods and with the community as a whole. For the adjacent historically significant core residential areas, the downtown functions as a location for daily social gatherings and casual evening strolls, a source of convenient neighborhood-based retail goods, and a point of connection to local civic and community organizations and City-wide transportation routes. For the City as a whole, the downtown also serves as a location for specialty shops, entertainment, civic gatherings, and access to local government.”
16. “The character of the downtown, expressed through its historically significant architecture, should be maintained and enhanced as both a reminder of Franklin’s rich past, and a symbol of its community identity and character. The downtown area and its surrounding core neighborhoods embody the traditional mixed-use, compact development characteristics that are encouraged in new construction in the community. Design features in the downtown should be consistent with the historically significant character and architecture present in the area. The downtown must remain a walkable area, with new construction being consistent in scale and setback to the area’s current character. Design features should be human scale and include window displays, awnings, street furniture, buildings built to the sidewalk, decorative street lights, and pedestrian-oriented business signs.”

Zoning Ordinance

17. 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.
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.

Surrounding Zoning:

North:	MXD: Mixed-use, Downton Center
South:	MXD: Mixed-use, Downton Center
East:	MXD: Mixed-use, Downton Center
West:	MXD: Mixed-use, Downton Center

Surrounding Land Use:

North:	Benjamin’s Coffeehouse
South:	Johnson Gray & Johnson
East:	Public Parking
West:	Johnson County Courthouse

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 approval of the proposed variances will not be injurious to the public health, safety, morals, and general welfare, as the proposal is for a hand-painted work of public art, at a property that provides a unique destination opportunity for Downtown Franklin, and an opportunity to enhance the community character already present downtown. Approval will contribute to the advancement of the Downtown as a unique activity center and will further the City's efforts to establish a distinct arts and cultural district. Staff further finds the approval will not be injurious to the general welfare, as the design was selected by Discover Downtown Franklin Board members that based their decision on, among other criteria, the design's artistic quality and strength of concept, and the suitability of the mural to the surrounding neighborhood. Moreover, the design must abide by the strict design criteria that designs not include logos, phrases or branding for any business, product, good, activity, service or private interest, and the design must not include nudity, suggestive poses, hate speech or imagery that might be found obscene, offensive, or morally shocking. Additionally, political, religious and memorial artwork will not be accepted. Furthermore, petitioners will incorporate a "graffiti-block" finish that will protect the mural from vandalism and help preserve the surface/paint of the mural for several years. Petitioner has also committed to maintaining the content of the proposed mural for a minimum of three years. Therefore, staff finds the approval will not be injurious to the general welfare.

- 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 approval will not have a substantially adverse effect on adjacent properties, as the location is a unique and well-travelled pedestrian-only alley connecting public parking to downtown businesses, with the proposed façade wall almost entirely blocked from view of passing motorists. Additionally, the subject property and proposed wall have long-served as the canvas for hand painted faux storefront display windows; with approval, the proposed mural would provide an updated design and could become a key attraction to draw more pedestrians and bicyclists to the downtown area to explore. Staff further finds the approval will not be detrimental to the use and value of adjacent properties, as the design was selected by Discover Downtown Franklin Board members that based their decision on, among other criteria, the design's artistic quality and strength of concept, and the suitability of the mural to the surrounding neighborhood. Moreover, the design must abide by the strict design criteria that designs not include logos, phrases or branding for any business, product, good, activity, service or private interest, and the design must not include nudity, suggestive poses, hate speech or imagery that might be found obscene, offensive, or morally shocking. Additionally, political, religious and memorial artwork will not be accepted. Furthermore, petitioners will incorporate a "graffiti-block" finish that will protect the mural from vandalism and help preserve the surface/paint of the mural for several years. Petitioner has also committed to maintaining the content of the proposed mural for a minimum of three years. Therefore, staff finds the use and value of adjacent properties will not be affected in a substantially adverse manner.

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 terms of the ordinance will result in a practical difficulty in the use of the property for a hand-painted public art mural. The Zoning Ordinance allows for painted wall signs in the Sign Standards; however, the limits of sign area available effectively eliminate the possibility of an artistic mural. Murals, regardless of content, typically encompass entire façades of buildings and not just small swaths. The strict application of the ordinance would result in the petitioners having to completely change the proposed public art project at the subject property, or cancel the project altogether.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **approval** of the petitions with the following conditions:

- a. The mural must be hand-painted directly on the building surfaces using exterior paint and a protective graffiti block clear-coat.
- b. Mural content must remain unchanged, except for complete or partial removal, or repair of damaged or faded paint for a minimum of three years.
- c. The mural must be maintained in accordance with Discover Downtown Franklin’s stated guidelines and design criteria, for the life of the mural, including all future mural designs.
- d. Lighting of the mural must comply with the Exterior Lighting Standards in the Zoning Ordinance, Article 7, Chapter 18, specifically for Lighting of Building Façades.