



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: September 26, 2019

Re: Cases ZB 2019-14 (V) | 216 E. Jefferson St. | Shawn Bennett

REQUESTS:

Case ZB 2019-14 (V)...216 E. Jefferson St. A request for a developmental standards variance from the City of Franklin Zoning Ordinance, Article 10, Chapter 4, to allow construction of a new accessory structure (detached garage) in connection with an existing legal non-conforming use, in the MXD: Mixed-use, Downtown Center zoning district. The property is currently used as a legal-nonconforming single-family residential home, and is located at 216 E. Jefferson St.

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:

1. Shawn Bennett, Petitioner, recently purchased an existing single-family residence at 216 E. Jefferson St., which was established prior to zoning. The property is now zoned MXD: Mixed use, Downtown Center, and single-family residential uses are not permitted; therefore, the use is considered a legal non-conforming use.
2. Petitioner proposes to construct a new 20' x 30' detached garage, with vehicular access via public alley at the rear of the property. Currently, there is a carport in the proposed garage location.
[See [Exhibit A: Site Plan](#)]
3. Petitioner has submitted their Proposed Findings of Fact [See [Exhibit B: Petitioner's Findings](#)]
4. Petitioner's description of the proposed garage states it would be 1-story, 2-car garage, with hip roof. The exterior design would match the historic home and neighboring homes, as well as, the color will be painted to match the house on the property.

Nonconforming Uses – New Structures Prohibited

5. According to Article 10, Chapter 4, "no new structure shall be constructed in connection with an existing legal nonconforming use of land."
6. Variance Request: *Petitioner is proposing a new 20' x 30' detached garage, in connection with the existing legal nonconforming single-family residential use.*

Nonconforming Uses – Expansion of Nonconforming Residential Use

7. According to Article 10, Chapter 4, “A legal nonconforming single-family residence located in any Mixed-use, Industrial, or Institutional zoning district may be expanded by up to 50% of the pre-expansion living area 1 time in any 5 calendar year period. The expansion must be for the purpose of continuing the residential use of the property. Required setbacks for the expansion shall be either those established by the zoning on the property, or those provided by the pre-expansion structure, whichever is less restrictive.”
8. According to Johnson County online Assessor records, the existing living/finished area of the house is 2352 sq. ft. With the basement included, which the Assessor indicates is unfinished, there is 3528 sq. ft.
9. Petitioner’s proposed garage (600 sq. ft.) is below the 50% maximum expansion area; therefore, would be permitted as the one expansion in a 5 calendar year period.

Access/Location Requirements

10. According to Article 7, Chapter 10, Part 3, Access/Location Requirements for Mixed Use, Institutional, and Industrial zoning districts, “parking areas must be designed to prevent vehicles from having to back into, or maneuver in public streets (access to alleys shall be exempt from this requirement).”
11. Petitioner’s site plan indicates they will utilize the existing concrete driveway and connect to the alley to the rear. The garage would be setback 20 feet from the alley.
12. Petitioner’s proposal meets the access requirements.

Comprehensive Plan & Zoning Ordinance

13. 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.”
14. 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.
15. 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.
16. The surrounding zoning and land uses are as follows:

Surrounding Zoning:

North: RTN: Residential, Traditional Neighborhood

South: MXD, Mixed-use: Downtown Center

East: MXD, Mixed-use: Downtown Center

West: MXD, Mixed-use: Downtown Center

Surrounding Land Use:

North: Church & parking lot

South: Downtown Retail & Office uses

East: Insurance Office & Salon

West: Single- & Two-family residential

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, as the subject property and single-family residence is clustered with other established residential uses on the same block. Furthermore, approval would allow the petitioner to convert an existing open-sided car port into a secure garage in the same location. The 2013 Comprehensive Plan designates this area as “Downtown,” then elaborates that there should be a mix of land uses, including residences, in the “Downtown.” Therefore, staff finds approval would not injure the public health, safety, morals, or 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 approval of the proposed variances will not adversely affect the use or value of adjacent properties, as the subject single-family residence is clustered with other established residential uses on the same block. While many of the adjacent uses are similarly residential, all are still considered legal nonconforming in the MXD: Mixed-use, Downtown Center zoning district; approval of the proposed variance could serve to solidify the residential use and value of the homes in the area for the foreseeable future. Moreover, approval for the proposed new detached garage would not affect the use and value of adjacent properties any more than a permitted attached garage expansion.

- 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 practical difficulties. The ordinance offers an exemption for a structural expansion of this size for legal nonconforming single-family residential uses; the caveat, in this case, is the language of the exemption, combined with the prohibition of any new structures, means a garage could be added, but only if attached. Staff finds it is not practical to strictly enforce the terms of the ordinance and require the garage be attached.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- All applicable permits and approvals shall be obtained prior to construction, including but not limited to an Improvement Location Permit (“Building Permit”) for the garage.
- Approval of a new structure shall be limited to a 20’ x 30’ single-story detached garage.
- Garage must be setback at least 20 feet from alley.