



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 4, 2020 **[UPDATED]**

Re: Case ZB 2020-10 (SE & V) Sterling Development, LLC

REQUEST:

Case ZB 2020-10 (SE & V)...Sterling Development, LLC. A request for two Special Exception Uses as follows: 1.) to allow a nursing/assisted living facility, and 2.) to allow a retirement facility, in the MXC: Mixed-use, Community Center zoning district, and two Developmental Standards Variances from the City of Franklin Zoning Ordinance, as follows: 1.) Article 7, Chapter 2, Maximum Building Height (45 feet required; 50 feet requested); and 2.) Article 7, Chapter 10, reduction of required parking spaces related to the retirement facility, in the MXC: Mixed-use, Community Center zoning district and Gateway Overlay District. The property is located on the west side of N Morton Street, across and south of the intersection of Paul Hand Rd and N Morton St/US Hwy 31.

PURPOSE OF STANDARD:

The “MXC”, Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized businesses and institutional facilities that serve the entire Franklin-area community. This district should be used alone and in combination with other zoning districts to create areas for community shopping, entertainment, services, and public gatherings.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City’s entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area’s traffic management issues

ZONING:

Surrounding Zoning:

North: MXC: Mixed-use, Community Center
South: MXC: Mixed-use, Community Center
East: MXC: Mixed-use, Community Center
West: RSN, Residential: Suburban Neighborhood
North, East & South: GW-OL: Gateway Overlay

Surrounding Land Use:

North: Single-family Residential
South: Agriculture crop field
East: Single-family residential, Ag. Crop field
West: Single-family Residential (Knollwood Sub.)

CONSIDERATIONS:

1. Petitioner, Sterling Development, LLC, is proposing to develop a new senior living community with a mix of independent living, assisted living, and memory care units on an approximately 8.9 acres property. [[Exhibit A: Conceptual Plan](#) & [Exhibit B: Building Massing](#)]
2. *Petitioner is proposing to develop the property with a total of 116 units, with 51 independent living units, 39 assisted living units, and 26 memory care units; therefore, petitioner requests two Special Exception use approvals, from the Mixed-use: Community Center district (MXC), to allow 1.) a nursing/assisted living use, and 2.) a retirement facility.* [See [Exhibit C: Special Exception Statement of Intent](#)]

3. An assisted living facility is defined as: “A facility providing services that assist residents with daily activities, such as dressing, grooming, bathing, etc.”
4. A nursing home is defined as: “A private home for the 24-hour per day care of the aged, infirm, or any other person in need of nursing care which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients or alcoholics. Nursing home does include physical therapy equipment used in an on-going basis for the rehabilitation of patients.
5. A retirement facility is defined as: “A residential complex containing multi-family dwellings designed for and occupied by senior citizens. Such facilities may include a common gathering and dining facilities, but exclude nursing care.
6. A nursing/assisted living facility use and a retirement facility use are both listed as a permitted uses in only the “RM,” Residential: Multi-family zoning district and “IN,” Institutional zoning district.
7. A nursing/assisted living facility use and a retirement facility use are both listed as a Special Exception uses in the “MXD,” Mixed-use: Downtown Center, “MXC,” Mixed-use: Community Center, and “MXR,” Mixed-use: Regional Center zoning districts. *Petitioner is requesting a 1.) Special Exception for an assisted living facility, and 2.) Special Exception for a retirement facility, at the subject property, which is zoned MXC.*

Conceptual Plans

8. Petitioner provided conceptual plans [See [Exhibit A: Conceptual Plan](#) & [Exhibit B: Building Massing](#)] for the proposed layout of the site and the general size, design, and massing of the proposed structure. The proposed plans are entirely conceptual and have not been reviewed by the City nor Technical Review Committee for compliance with the Zoning Ordinance or building codes.

Building Height

9. According to Article 7, Chapter 2, Building Height, 45 feet is the maximum primary structure height permitted in the MXC: Mixed-use, Community Center zoning district.
10. Variance (1.): *Petitioner is requesting a development standards variance to be permitted up to 50 feet for the primary structure height.* [[Exhibit D: Building Height Variance Statement of Intent](#)]
11. Petitioner states the need for variance for building height is necessary due to the need to run centralized HVAC, plumbing, and mechanical systems along the ceiling in the common hallways; the need for these systems to be located as such, requires an additional ceiling/hallway height of 18”-24” on upper floors and as much as 48” on the first floor. Additionally, the petitioner desires a 6:12 pitch roof to reinforce the residential nature of the property and meet industry standards for shingle use. [See [Exhibit: D](#)]

Parking Standards

12. According to Article 7, Chapter 10, Parking Standards, Requirements for Non-conforming Uses and Uses Permitted by Special Exception or Variance: Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for nonconforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.
13. According to Article 7, Chapter 10, Parking Standards:
 - Space Requirements: A minimum of **2.5 off-street parking spaces are required** for each dwelling unit (rounded to the nearest complete space), associated with Multi-Family Dwellings; therefore, the independent living (retirement facility) portion is required 2.5 parking spaces X 51 units = 128 parking spaces.
 - Variance (2.): *Petitioner requests 1.0 spaces per unit for the Independent Living units. The variance request is for a reduction of 1.5 spaces per independent living unit.* [See [Exhibit E: Parking Variance Statement of Intent](#), [Exhibit F: Franciscan Ministries Parking Ratios](#), and [Exhibit G: Kimley-Horn Parking Ratios](#)]

- **Space Requirements:** A minimum of **1 off-street parking space is required for every 4 patient beds** associated with a nursing facility; therefore, the assisted living & memory care portion is required to have (1 parking space * (65 units/4)) = 16 parking spaces. *Petitioner stated their intent to meet this requirement for assisted living & memory care unit parking.*
- **Space Requirements:** A minimum of **1 off-street parking space is required for every employee working on the largest shift.** Petitioner claims the overall facility will employ 60 employees over three shifts. Petitioner did not indicate the size of the largest shift, nor if number of employees was equal across all shifts. *Petitioner's request/proposal for a total of 87 total parking spaces seems to indicate a maximum of 20 employees on all three shifts. The Board may want to query the petitioner on the size of the largest shift.*
- **Space Requirements:** **One (1) off-street parking space is required for every business vehicle** stored on-site. *Petitioner has not indicated whether the combined Independent Living, Assisting Living, and Memory Care facility will have shuttle bus(es) or other vehicles to transport residents.*
- **Parking of the Disabled:**
 - At least one (1) space must be reserved for disabled persons for every 25 parking spaces provided; OR
 - Equal one (1) space for every handicap-accessible dwelling unit, whichever is greater; AND
 - Must be 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.
- Minimum parking stall size is 9' x 18' and must be striped.
- Each parking space must be paved with asphalt or concrete.

Parking Ratio Study

14. Petitioner provided analysis of parking provided at senior living communities in Illinois and in Johnson County, IN [See [Exhibit F: Franciscan Parking Ratios](#) & [Exhibit G: Kimley-Horn Parking Ratios](#)]:

<u>Facility Name, Location:</u>	<u>Independent Living Units</u>	<u># Parking Spaces</u>	<u>Ratio</u>
Franciscan Village, Lemont, Illinois:	184	60	0.32
Marian Village, Homer Glen, Illinois:	138	97	0.70
Addolorata Villa, Wheeling, Illinois:	100	34	0.34
Village at Victory Lakes, Lindenhurst, IL:	100	56	0.56
Greenwood Village South, Greenwood, IN:	198*	300*	1.52*
Otterbein Franklin, Franklin, IN:	61*	110*	1.80*

*Estimated from market research and aerial photography

15. *Petitioner is requesting a variance to be permitted a parking ratio of 1.0 for the independent living units.*

Comprehensive Plan & Zoning Ordinance

16. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers area intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."
17. 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.

18. Article 11, Chapter 4 states “Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be invalid if (1) the property conforms with the Ordinance as written, or (2) the special exception approval is terminated (consistent with Section 2.5(L)).”
19. Article 11, Chapter 4 states “A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special exception.”

CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Article 11.4 of the Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

DECISION CRITERIA – SPECIAL EXCEPTION

- 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 two special exceptions, for assisted living facility and retirement facility, will not be injurious to the public health safety, morals, and general welfare of the community. The general vicinity is primarily characterized by single-family residential uses, but also includes an assisted living facility, in Christina Place Assisted Living Community. Both uses are listed as special exceptions in the MXC: Mixed-use Community Center zoning district and petitioners intend to meet the required development standards, with the exception of the two requested variances related to maximum building height and number of parking spaces per independent living dwelling unit. Approval of the special exceptions, with or without the requested variances will not be injurious to the general welfare, as the stated district intent for the MXC zoning district includes institutional facilities that serve the entire community. Moreover, a landscape buffer yard is required to be provided along the subject property’s western boundary adjacent to the Knollwood Farms subdivision.

- 2. Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.***

Staff Finding:

The proposed retirement facility special exception use includes a request for a development standards variance related to the parking supply. The variance requested would reduce the minimum number of required parking spaces for the independent living portion of the project, from 2.5 parking spaces per dwelling unit, down to 1.0 space per unit. A second variance is requested relative to both special exception uses, to allow the building height to be permitted up to 50 feet. Petitioner intends to meet all other applicable development standards.

- 3. Ordinance Intent: Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.***

Staff Finding:

The requested uses are listed as a special exceptions in the Mixed-use, Community Center zoning district regulations and the proposed units would not result in an adverse impact on adjoining properties. Staff finds the proposed quasi-residential, quasi-institutional uses proposed would not permanently injure other property or uses in the same district and vicinity any more than other permitted commercial uses in the MXC district. Moreover, with a parking ratio of 1.0 spaces per independent living dwelling unit, petitioners are limiting the vehicular impact on the property, reducing it significantly from what is permitted for a multi-family use; therefore, approval would not injure other property and uses in the general vicinity.

4. ***Comprehensive Plan: The granting of the variance (will or will not) be consistent with the character of the zoning district in which it is located, and (will or will not) be consistent with the Franklin Comprehensive Plan.***

Staff Finding:

The granting of the special exception will be consistent with the character of the MXC zoning district and will be consistent with the Comprehensive Plan's designation of this area as a Community Activity Center. The MXC district and the Comprehensive Plan Land Use Plan both intend for this area to be a gathering place and activity center for Franklin, where services are provided, including institutional uses and multi-family residences on upper levels; assisted living and independent living units are consistent with those stated goals.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION – SPECIAL EXCEPTION

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

1. Special Exception approval for a nursing/assisted living facility use is limited to, and runs with Franklin Senior Housing, LLC D/B/A Astral at Franklin, at the subject property.
2. Special Exception approval for a nursing/assisted living facility use is limited to 39 assisted living units and 26 memory care units.
3. Special Exception approval for a retirement facility use is limited to, and runs with Franklin Senior Housing, LLC D/B/A Astral at Franklin, at the subject property.
4. Special Exception approval for a retirement facility use is limited to 51 independent living units.
5. A minimum of one (1) off-street parking space is required to be provided per four (4) patient beds associated with the nursing/assisted living use.
6. A minimum of one (1.0) off-street parking space is required to be provided for each independent living unit on-site.
7. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
8. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

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 VARIANCE

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 of the community. Approval of the building height variance will allow a more traditional residential roof pitch and aesthetic for the proposed development, which will benefit the residential uses in the general vicinity. Approval of the parking reduction related to the independent living units will not be injurious, as the need for parking spaces for retirement facilities is substantially less than is usual for traditional “non-retirement” multi-family developments. It is common for residents in retirement communities to live alone, for couples to have down-sized to one vehicle, and/or no vehicle, as many services are provided by the retirement facility.

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:

The use and value of adjacent properties will not be affected in a substantially adverse manner, as the two variances requested both reduce the potential commercial/institutional aesthetic and impact on the property, by allowing a more traditional residential-style sloped roof, and by sharply reducing the potential number of vehicles on-site. Moreover, the reduction in parking spaces required will reduce the impervious surface area, thereby allowing more greenspace, and less parking lot runoff. Denial of the height variance would not change the number of stories or height of the façade walls, as petitioners could reduce the pitch of the roof in order to meet the requirement; therefore, staff finds approval would not adversely affect adjacent properties.

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:

The strict application of the ordinance will result in practical difficulties in the use of the property, as petitioner could construct the same facility with a 3:12 pitch roof, and meet the height requirement; however, a 3:12 pitch roof does not lend itself to a residential aesthetic and is too shallow for industry-standard shingles. Moreover, this type of facility also requires blending a commercial level of centralized HVAC, plumbing, and mechanical systems needed to serve the shared common spaces with localized systems to serve individual units. The ductwork and piping for the centralized systems must be run above the hallways to provide future maintenance access without disturbing or requiring entry to residential units. These chase spaces typically require up to 48" of vertical clear space on the first floor and 18"-24" on upper floors. Therefore, the unique centralized systems associated with the proposed uses force the structure to be constructed with additional chase areas provided between floors, in contrast with standard multi-family developments that have completely separate mechanical systems for each unit. Additionally, staff finds there is a practical difficulty in strictly requiring the full 2.5 parking spaces per dwelling unit for the retirement facility use, as required for typical "non-retirement" multi-family developments, as it is common for residents in retirement communities to live alone, for couples to have down-sized to one vehicle, and/or no vehicle.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE

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

1. Maximum height of the structure: 50 feet.
2. A sloped roof with a pitch equal to or steeper than 4:12 pitch is required for all portions of the building that are two or more stories in height.
3. A minimum of one (1.0) off-street parking space is required to be provided for each independent living unit on-site.
4. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
5. All other applicable parking requirements must be met, including number of spaces for the nursing/assisted living and memory care units, parking spaces for employees on largest shift, and parking spaces for all business vehicles stored on-site.