

## **MINUTES**

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

**August 5, 2020**

#### **Members Present**

Jim Martin  
Phil Barrow  
Charlotte Sullivan  
Ashley Zarse

Chairman  
Vice-Chairman  
Secretary  
Member

#### **Members Absent**

Brian Alsip

Member

#### **Others Present**

Alex Getchell  
Joanna Myers  
Lynn Gray

Senior Planner I  
Senior Planner II/Recording Secretary  
Legal Counsel

#### **Call to Order**

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

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

#### **Approval of Minutes**

Attorney Lynn Gray offered a correction to the minutes on page three. Confirmation received from City Engineer Mark Richards by text during the meeting confirmed that Forest Road improvements would not specifically include a widening to a three-lane road but a simple widening. Charlotte Sullivan made a motion to approve the minutes of June 3, 2020 as corrected. Phil Barrow seconded. The motion passed unanimously, 4-0.

#### **Swearing In**

Ms. Gray swore en masse anyone planning to speak.

#### **Old Business**

None.

#### **New Business**

**ZB 2020-09 (V) – 250 E Madison St** – Alex Getchell introduced the three developmental standard variance requests by property owner and petitioner Craig Wells. The property is zoned RTN (Residential: Traditional Neighborhood). The Comprehensive Plan calls for the area to be core residential uses. The first request is to allow minimum ground floor area with zero living space. The entire ground floor would be garage or other use. The second variance request is for traditional residential garage setbacks.

The ordinance requires garages in RTN (Residential: Traditional Neighborhood) districts to be set back from the living area by at least 10 feet. This request is for zero setback from the living area. The third request has to do with the traditional residential entry porch dimensions. The ordinance requires the porch to extend at least 50% of the length of the entry façade. The request is for approximately 29.5%. The property has access on four sides by public right-of-way, Madison Street on the south, Crowell Street on the east and an alley on north and west. Mr. Wells owns both 248 and 250 E Madison Street.

Mr. Wells began his presentation accompanied by a PowerPoint presentation with a background of their family's history in Franklin and the two properties. He cited their three reasons for purchasing 250 E Madison Street. The first is a garage for indoor vehicle parking. The second is for guest housing. The third is for storage space. Mr. Wells reviewed the three variance requests as Mr. Getchell previously presented. The lot is an irregularly shaped lot. By putting the garage space on the ground floor and living space on the second floor, there is space remaining on the lot for landscaping. Mr. Wells has had conversation with all of the neighbors and submitted letters of support from them as exhibits. He has reviewed it with Franklin Heritage, and they like the proposed plan and would not remonstrate against it. He also pointed out that the increase in property taxes after the addition of the proposed building would be over \$3,000 into the city.

Mr. Wells reviewed the three decision criteria, as follows:

General Welfare: Mr. Wells stated it provides a safe, comfortable accommodation to overnight guests. It gets vehicles inside, minimizing thievery. Extensive landscaping planned for will provide a serene location for guests and a pleasant aesthetic to those adjacent to the property.

Adjacent Property: Mr. Wells stated most neighbors agree that it would increase their property values.

Practical Difficulty: Mr. Wells previously showed this with the lot size and shape making it difficult to achieve what he needs for the property. It is a reasonable plan meeting the design guidelines for the overlay district and also meets the spirit of the ordinances.

Chairman Martin opened the public hearing by asking if there was anyone wishing to speak for or against the requests. No one came forward. Chairman Martin closed the public hearing.

Mr. Barrow asked if the porch faced Madison St. Mr. Wells replied that it faces Crowell Street.

Ashley Zarse asked if there were any plans for it to be a temporary rental or Airbnb. Mr. Wells said it was possible, but they would not be renting to college students. Mr. Martin asked if it will ever be used as a rental property, and Mr. Wells maintained it was possible. Mr. Wells stated he could not commit to not renting it out in the future.

Ms. Gray asked if they could put a two-car garage and house on the property or is it just that they cannot put a four-car garage and house on the property. Mr. Wells stated he could not put four cars and a house on the subject property. He also identified that they cannot put a two-car garage on their property as they are preparing to extend their house which will move the deck further out. In addition, where there is currently a gravel parking pad, they plan to make a concrete patio area complete without outdoor kitchen, on his lot, 248 E Madison Street.

There being no further questions from the Board, Chairman Martin requested staff's recommendation. Mr. Getchell stated staff's recommendation of denial, as outlined in the staff report, due to the general welfare and practical difficulty. For general welfare, staff finds it to be inconsistent with the traditional residential standards in three different areas, not just one or two, but in substantial ways; the garage

setback, the porch size and not having an living area on the ground floor. Staff finds the practical difficulty to be self-imposed due to intended use and design. A traditional residential development is possible on the site. A single-family house with garage is possible. The petitioner's intended use is what is different and the self-imposed difficulty on the property.

Mr. Barrow asked if something similar to this has ever been approved. It was identified not to have been in the last 14 years. Mr. Barrow summarized that it is advantageous to the applicant because he lives next door. He might not always live next door and then you have a property with a garage and house on top. Ms. Gray specified that it is sellable as an individual property, as petitioners two properties are separate legal descriptions.

Mr. Barrow made a motion for denial based on the general welfare and practical difficulty as presented in staff report. Ms. Sullivan seconded the motion. Motion for denial passed unanimously, 4-0.

**ZB 2020-10 (SE/V) – Sterling Development, LLC** – Mr. Getchell presented the two special exception and two developmental standards variance requests. The project will move forward as Franklin Senior Housing, LLC, dba as Astral of Franklin. The project is at the intersection of US 31 and Paul Hand Road. There is no address assigned, yet. The project is zoned MXC (Mixed Use: Community Center) and Gateway Overlay District. The Comprehensive Plan calls for this area to be a Community Activity center. The first special exception request is to allow a nursing and assisted living facility and the second is a retirement facility in the MXC (Mixed Use: Community Center) zoning district. The project will be entirely in a single building with different units including retirement, independent and assisted living and memory care. The uses proposed fit into both categories so it requires two special exception approvals. One developmental standards variance request is to allow the maximum building height to exceed 45 feet, as they are requesting 50 feet. The second request is for a reduction in the number of parking spaces required per dwelling unit related to the independent living or retirement facility use. They are requesting to decrease from 2.5 parking spaces per unit down to one per unit. If the roof was a 3:12 pitch, they could meet the 45-foot building height requirement. They are proposing a 6:12 pitch which would take it up to 50 feet. The wall height will not change.

Patrick Hess with Sterling Development, LLC, presented. General Counsel Joe Scimia and Civil Engineer Mike Timko were also in attendance. Mr. Hess began by giving an overview of their company. The total developable site is 7.5 acres. The overall parcel is 8.9 acres. Part is taken out due to setbacks and the extension of Nicole Drive on the north end which will be used to access the site. The surrounding uses include Knollwood Farms to the west, residential development to the north and existing agricultural uses to the south and east. The center of their proposed building has all the central services for the residents. One horseshoe wing services memory care and assisted living residents and the other side independent living apartments. Parking surrounds the building. There is a required 20-foot landscape buffer which will be maintained between this property and the residential development to the west. The nearest encroachment of the building on the west is over 100 feet away. There is a 20-foot rear yard setback in addition to the landscape buffer. Other than the variances sought, the project will meet all other developmental standards. There is an existing tree line along the property line and the neighbor to the west. The petitioner has no intention of removing any of that vegetation. Additional vegetation will be supplemented as needed to meet the 20-foot landscape buffer requirement. The plan is for construction to begin early 2021 and fully operational in early 2022.

Mr. Hess reviewed the decision criteria for the special exceptions for assisted living and retirement facilities, as follows:

General Welfare: Mr. Hess stated it has a low level impact. The required landscape buffer will be provided. Another assisted living facility is in the area much closer to the adjoining neighborhood than this facility will be. He stated the building will be constructed according to building codes, and there will be 24/7 onsite management to insure the general welfare of community residents.

Development Standards: Mr. Hess stated the zoning ordinance will be met. Outside of the two variances sought, all other applicable standards will be met.

Ordinance Intent: Mr. Hess stated the requested special exceptions are residential in nature and have a low level impact on adjacent properties. He stated vehicular use is limited for these uses.

Comprehensive Plan: Mr. Hess stated they exist to serve the senior community of all Franklin and will be a complimentary use to adjacent properties.

Mr. Hess then addressed the decision criteria for the development standards variances, as follows:

General Welfare: He stated the roof height variance creates a more traditional roof pitch, benefiting the design aesthetic of the building. It communicates the residential nature of the facility. He stated parking still meets resident needs, while also increasing the greenspace and decreasing storm water runoff.

Adjacent Property: He stated both variances decrease the institutional look of the facility. The height increase sought is only five feet and the overall exterior wall height will remain unchanged. He stated the greenspace is increased on site by reducing the parking requirements.

Practical Difficulty: He stated with an assisted living facility, it is desired to limit the travel distance from the resident units to the central core of the building. The floor to floor heights have to be taller than would be in a traditional multi-family setting due to local HVAC for resident units combined with a central system for common areas. Parking spaces at the 2.5 per independent living unit results in spaces underutilized by the resident needs. A site already constrained by various setbacks and the need to accommodate all the impervious surface with expanded storm water containment increases the difficulty of developing the site as is.

The petitioner stated their acceptance of all conditions cited in the staff report. He requested numbers one and three of the special exceptions be changed from Sterling Development LLC to Sterling Senior Housing LLC dba as Astral of Franklin.

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

Justin Stall is a resident of the house just north of the proposed project. He asked if the tree line will be maintained or if Nicole Drive will take that away. Having the street so close to their property will result in a reduction of their property. Mr. Stall also expressed concern over the major thoroughfare with increased traffic he believes it will become contrary to the petitioner's statement of low traffic volume. Their driveway will also be very close to Nicole Drive and he is concerned about the issues that might create for them.

Diane Engelau is a resident of Knollwood Farms. Nicole Drive is very narrow, and she wondered how that will be made a two-way street and is also concerned about the amount of increased traffic. She also wanted more information about the 20-foot buffer and what it will consist of. She also wanted to hear plans for water containment and drainage assistance as their property almost floods every time it rains. She asked how many stories the building will be as her current view from her house is a cornfield.

Ms. Gray explained the issue before the Board is not a rezoning. They are permitted by zoning to build any number of different facilities including healthcare without approval. This addressed Ms. Engelau's concern with regards to the obstruction of her cornfield view.

Joe Scimia, vice president of Sterling Group, responded to the remonstrators. He described them to be a good neighbor. They have considered at length how best to build at this property and take in to consideration the surrounding community's concerns. Nicole Drive was already stubbed and anticipated to be extended to US 31. A number of more intense uses generating much more significant traffic by zoning could build at this site. Very few assisted living and memory care residents will have vehicles. The tree line on the west side of the property will be maintained as per city ordinance. Dead trees will be removed and general clean up accomplished. The water drainage for this will be fully engineered by consummate professionals and probably be better than what it is now. The height is only being increased by five feet to make the structure look more residential and less commercial in nature. The structure will be three stories.

Chairman Martin requested any other comments or questions from the audience. There being none, the public hearing was closed.

Ms. Gray asked staff to describe the meaning of buffer zone consistent with the ordinance. Mr. Getchell explained that where an MXC property abuts an RSN property, the MXC property is required to provide a buffer yard type two, which is a 20-foot wide landscape area. Within the area they must provide at least one deciduous tree or at least two evergreen trees for every 25 feet length of that area along the property line. The minimum side yard setback for primary structures is 15 feet, in addition to the 20-foot buffer yard, for a total of 35 feet. He stated the petitioner appears to be providing an approximate 100 feet. Ms. Gray asked what the next step would be, should the Board approve the request. Mr. Getchell identified that to be site development plan review. They will submit engineered drawings for review at Technical Review Committee. Ms. Gray reminded that city ordinance requires that post-development runoff cannot exceed pre-development runoff. There would be no additional public hearing as long as additional variances are not requested.

Ms. Sullivan asked the petitioner what their plans are for the road. Civil Engineer Mike Timko with Kimley Horn responded that the road extension was the design intent from the beginning of the development. They will not make any changes to Nicole Drive within the subdivision. The right-of-way will be dedicated so it can be a public road through that area. They have coordinated with INDOT. If required by the city, they would have no issue connecting to the additional feeder road to spread out the traffic flow.

Mr. Stall asked if the tree line is destroyed with the extension of Nicole Drive if there is a requirement that additional foliage be put in. Ms. Gray responded affirmatively. Mr. Getchell clarified there would be street trees at one per 35 feet of frontage but not buffer yard on the short north line. Mr. Stall asked if there will be a traffic light. INDOT has jurisdiction over that exclusively. Mr. Stall asked how he can ask questions if things arise in the future and Ms. Gray directed him to Mr. Getchell.

Ms. Sullivan asked if they have submitted all needed information with regards to parking spaces. Mr. Getchell responded not entirely. He stated that petitioners had indicated 60 employees and three shifts. It was not indicated if it was 20 per shift or if there is a shift with a higher number. He stated business vehicles to be stored on-site have not been identified as of, yet, and each one would require an additional parking space. Mr. Getchell stated he believed the recommended conditions in the staff report have dealt with this. Petitioner responded that there are 20-25 employees per shift. With employees, visitors and courtesy vehicles, they would still have approximately 25 spaces remaining.

There being no further questions or comment by the Board, Chairman Martin requested staff's recommendation.

Mr. Getchell stated staff's recommendation for **approval** of the special exception requests, with the following conditions:

- a. 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.
- b. Special Exception approval for a nursing/assisted living facility use is limited to 39 assisted living units and 26 memory care units.
- c. 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.
- d. Special Exception approval for a retirement facility use is limited to 51 independent living units.
- e. 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.
- f. A minimum of one (1.0) off-street parking space is required to be provided for each independent living unit on-site.
- g. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- h. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.
- i. Petitioner will maintain the existing tree line along the western property line, except for deadwooding as permitted by ordinance, in addition to the required buffer yard trees.

The petitioner by its representative agreed to all conditions.

Ms. Sullivan made a motion for approval with staff recommended conditions. Mr. Barrow seconded the motion. The motion passed unanimously, 4-0.

Mr. Getchell stated staff's recommendation for **approval** of the development standards variance requests, with the following conditions:

- a. Maximum height of the structure: 50 feet.
- b. No portion of the building is permitted to exceed 45 feet in height except for roofs with a pitch equal to or greater than a pitch of 4:12.

Petitioner inquired for interpretation and clarification purposes with regards to gable ends and three-story buildings, if this allowed a gable end to the building. Mr. Getchell confirm that it would.

Mr. Getchell continued with the staff recommendation and conditions:

- c. A minimum of one (1.0) off-street parking space is required to be provided for each independent living unit on-site.
- d. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- e. 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.

Petitioner stated acceptance of staff's recommended conditions. Mr. Barrow made a motion for approval with staff's recommended conditions. Ms. Sullivan seconded. The motion passed unanimously, 4-0.

**ZB 2020-11 (UV) – 100 International Dr.** – Mr. Getchell presented this use variance request from Farm Credit Mid-America. The property is zoned IG (Industrial: General) and is located in the Gateway Overlay district. The Comprehensive Plan calls for this area to be manufacturing. The use variance is to allow an office use. Petitioner is proposing a bank or financial institution and is the use currently

occurring on the property. Petitioner's plan is to demolish the existing structure and rebuild new. The current use is considered a legal, non-conforming use. As such, it is not permitted to build new structures on the property or to change the site. The property is on the corner of International Drive and North Morton Street (US 31). The drive will continue to go around the building as it does now. The parking lot layout will change minimally. The building will be shaped a little differently with a different entryway that meets the Gateway Overlay standards.

Liming Zheng gave an overview of the project highlighting what was previously stated. The new layout will meet the setback requirements. The parking spaces will be changed to all be up against the building. These are their only two changes.

Mr. Zheng addressed the decision criteria, as follows:

General Welfare: He stated it will not be injurious as the function will remain the same. The working hours are Monday through Friday from 8a-5p. There will be no noise pollution or heavy traffic.

Adjacent Property: He stated the value will be increased with a new building, and same use.

Peculiar Situation and Unnecessary Hardship: He stated, currently the zoning is IG, which doesn't allow banking but they are continuing the same use. He stated, if they exactly follow the zoning, the lot is only 1.66 acres and the zoning requires at least 2 acres, so no matter the use of the lot, you cannot exactly follow the zoning.

Comprehensive Plan: He stated they will be a similar business to those in the immediate area.

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

Dan Billings with Aerosmith Architects, doing the project with Farm Credit, explained their concerns about the existing building and highlighted some of the betterments that will come with the new build. He stated Farm Credit has been there since the 1970's.

There being no other questions or comments from the audience, Chairman Martin closed the public hearing.

Chairman Martin asked about current sidewalks in front of the property and any responsibility petitioner would have for sidewalks. Ms. Myers stated there will be sidewalks with the 31 project and petitioners will not be required to put them in.

There being no further questions or comments by the Board, Chairman Martin requested staff's recommendation. Mr. Getchell presented staff's recommendation for approval with the conditions outlined in the staff report:

- a. Use variance approval is for an office use (financial institution) and approval is limited and runs with the applicant, Farm Credit Mid-America, at the subject property, 100 International Drive.
- b. While the use variance remains active and in effect on the property, no other business or business use is permitted on the property, except those clearly accessory to the primary use, as approved.
- c. All applicable Federal, State, and Local permits / approvals shall be obtained prior to construction, including but not limited to: State Construction Design Release, Local Building & Sign Permits, etc.
- d. A minimum of twenty-eight (28) parking spaces shall be provided onsite.

Petitioner stated acceptance of staff's recommended conditions. Ms. Sullivan made a motion for approval with staff recommended conditions. Ms. Zarse seconded. The motion passed unanimously, 4-0.

Ms. Gray thanked Mr. Getchell for the thoroughness and helpfulness of his staff reports. Board members concurred.

**Other Business**

**Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 2nd day of September, 2020.

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Jim Martin, Chairman

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Charlotte Sullivan, Secretary