



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: January 27, 2021

Re: Cases **ZB 2021-01 (UV) | 3059 N Morton St | Kwiatkowski**

REQUESTS:

Case ZB 2021-01 (UV): A request for Use Variance from the City of Franklin Zoning Ordinance Article 3, Chapter 23, to allow one or two office uses (administrative/professional office), in the IG: Industrial, General zoning district, and the Gateway Overlay District. The subject property is located at 3059 N Morton St, and is 0.626 acres in size.

PURPOSE OF STANDARD:

The “IG”, Industrial: General zoning district is intended to provide locations for general industrial manufacturing, production, assembly, warehousing, research & development facilities, and similar land uses. This district is intended to accommodate a variety of industrial uses in locations and under conditions that minimize land use conflicts. This district should be used to support industrial retention and expansion in Franklin.

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: IG: Industrial, General

South: IG: Industrial, General

East: IG: Industrial, General

West: MXC, Mixed-use: Community Center

North, East, South & West: GW-OL: Gateway Overlay

Surrounding Land Use:

North: Fletcher Pre-Owned Car Lot

South: Farm Credit Mid-America

East: Industrial Small Shops

West: Beck Automotive (Auto repair)

CONSIDERATIONS:

1. Matt Kwiatkowski, Petitioner and State Farm Insurance Agent, proposes to relocate his Franklin branch office to the subject property at 3059 N Morton St. Petitioner requests the ability to occupy the property as either a single office use, or two professional office uses with another complimentary use (e.g. mortgage company). [See [Exhibit A: Building Floor Plan](#) and [Exhibit B: Site Plan](#)] *The building and site plans provided are from a previous building expansion. Petitioner is not proposing any construction.*
2. The current use (government office) is considered a legal nonconforming use, as the zoning of the property (IG: Industrial General) was changed after the use of the property was established on-site & a government office is not permitted in the IG District. *Petitioner wishes to establish a dissimilar office use (as defined by the Zoning Ordinance) on-site, with the possibility of a second office use sharing occupancy of the structure. An example of a second use would be a mortgage company use.*

3. According to Article 10, Chapter 4, Nonconforming Uses:
 - A. **Legal Nonconforming Uses:** Any lawful use of structures, land, or structures and land in combination established prior to the effective date of this ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located shall be deemed a Legal Nonconforming Use.
 - B. **Continuation of Nonconforming Uses:** A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions:
 6. Change of Use (to Another Nonconforming Use): If no structural alterations are made, it is possible to change any nonconforming use to another nonconforming use.
 - b. *Dissimilar Uses:* Nonconforming uses may only be changed to other dissimilar nonconforming uses with the approval of the Board of Zoning Appeals (as a use variance). For the purpose of this Section dissimilar uses shall be considered those that are not within the same land use categories (such as office uses, retail uses (small scale), etc.) as provided by Article 3 of this Ordinance.
 - i. The Board may approve the change of use if it finds that the proposed use is equally or more appropriate to the district in which it is located than the existing use.
 - ii. The Board shall consider the development standards applicable to the proposed use established by this Ordinance and may make reasonable conditions as part of any approval.
4. *Government Office and Office Use (Administrative/Professional Office)* are not listed within the same land use categories as provided by Article 3 of the Zoning Ordinance, and are therefore dissimilar uses.
5. Office Use is defined as “Administrative, executive, professional, research, or similar organizations, and laboratories having only limited contact with the public, with no merchandise or merchandising services sold on the premises.”
6. Administrative/Professional Office is listed as an Office Use per the land use table in Article 3.2, and is listed as a *non-permitted use* in the IG (Industrial: General) zoning district.
7. Office Use (including Administrative/Professional Office) is listed as a permitted use in the MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center) zoning districts.
8. Office Use (including Administrative/Professional Office) is listed as a special exception use in the MXN (Mixed Use: Neighborhood Center) zoning district.
9. Use Variance: *Petitioner is requesting a variance of use to be permitted to operate an office use (administrative/professional office) in the IG: Industrial, General zoning district.*

Parking

10. Article 7, Chapter 10 of the Zoning Ordinance states “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 non-conforming 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.”
11. According to Article 7, Chapter 10, Parking Standards:
 - A. A minimum of 1 off-street parking space is required for (rounded to the nearest complete space):
 6. Every 250 sq. ft. in an administrative/professional office;
 7. Each employee working on the largest shift; and
 8. Each business vehicle stored on-site.
 9. At least one (1) space must be reserved for disabled persons for every 25 parking spaces provided.
 - B. Minimum parking stall size is 9' x 18' and must be paved with asphalt or concrete & striped.

12. Therefore, according to Article 7.10, the number of off-street parking spaces required for the proposed use are as follows:
 6. Office square footage (~2,500 sq. ft.): 10 spaces
 7. Employees on largest shift (7): 7 spaces (Insurance Agency Only)
 8. Business vehicles (1): 1 spaces
 9. Disabled Persons spaces required: 1 spaces
 10. TOTAL SPACES REQUIRED: 18 spaces (Insurance Agency Only)
 11. TOTAL SPACES PROPOSED: 23 spaces (1 handicap) [See [Exhibit B: Site Plan](#)]
13. At least one (1) space provided must be reserved for disabled persons, 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.

Comprehensive Plan

14. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Manufacturing. “Manufacturing areas are intended to accommodate large scale businesses that produce finished products from raw materials. Uses in these areas may include product manufacturers, as well as any related warehousing and offices. Manufacturing areas may include facilities that involve emissions or the outdoor storage of materials and finished products. These two factors are the primary distinction between manufacturing areas and light industrial areas.”
15. The 2013 Franklin Comprehensive Plan, Land Use Plan indicates the current inventory of industrial land may not be adequate, and goes on to state that “more (industrial) land is needed to accommodate a variety of employer sites.”
16. The 2013 Comprehensive Plan, Land Use Plan also discusses the importance of maintaining an adequate inventory of available industrial land. “The land does not have to be completely developed, but should at least be zoned appropriately to protect it from competing uses.”

Zoning Ordinance

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. According to Article 11.3: Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit use variances to a specific time period and a specific use. Use variances shall be invalid if (1) the property conforms with the Ordinance as written or (2) the variance is terminated.

CRITERIA FOR DECISIONS – USE VARIANCE:

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

In taking action on all use 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 use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

DECISION CRITERIA – USE 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 the approval of the use variance will not be injurious to the public health, safety, or general welfare of the community. The proposed use, albeit not permitted in the IG district, is similar to the longstanding

existing use (government office) already occurring on the site as a legal nonconforming use. Petitioner is not planning to make physical changes to the structure or site that would change the appearance or function as it currently exists. Moreover, the existing parking lot has parking spaces in excess of the ordinance requirements for the insurance agency use, and could accommodate a second office use with up to five employees on-site. Furthermore, the N Morton St/US Hwy 31 corridor is characterized by a variety commercial, retail, professional office uses, and banks; therefore, approval of the proposed use variance, to allow the office use (administrative/professional office) at the subject property, will not be injurious to the general welfare of the community and general vicinity.

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 adjacent properties would not be affected in a substantially adverse manner, as the proposed use, albeit not permitted in the IG district, is similar to the longstanding existing use (government office) already occurring on the site as a legal nonconforming use. Petitioner is not planning to make physical changes to the structure or site that would change the appearance or function as it currently exists. Moreover, the existing parking lot has parking spaces in excess of the ordinance requirements for the insurance agency use, and could accommodate a second office use with up to five employees on-site. Furthermore, the N Morton St/US Hwy 31 corridor is characterized by a variety commercial, retail, professional office uses, and banks; therefore, approval of the proposed use variance, to allow the office use (administrative/professional office) at the subject property, will not substantially affect the use and value of adjacent properties.

3. *Peculiar Situation: The need for the variance (arises or does not arise) from some condition peculiar to the property involved.*

Staff Finding:

Staff finds that the need for the variance does arise from a condition peculiar to the property involved, as the relatively small size of the property, at just 0.626 acres, is smaller than the minimum permitted lot size for a new IG: Industrial General development. As such, the size of the property is not conducive for Industrial General users; therefore, finding a permitted strictly-industrial user to operate from this property would be difficult, if not unlikely altogether. Additionally, the proposed use is similar to the longstanding existing use (government office) already occurring on the site as a legal nonconforming use. Moreover, the proposed use will have an appearance and function very similar to the existing site.

4. *Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.*

Staff Finding:

Staff finds that the strict application of the terms of the Ordinance will result in an unnecessary hardship, as the relatively small size of the property, at just 0.626 acres, is smaller than the minimum permitted lot size for a new IG: Industrial General development. As such, the size of the property is not conducive for Industrial General users; therefore, finding a permitted strictly-industrial user to operate from this property would be difficult, if not unlikely altogether.

5. *Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.*

Staff Finding:

Staff finds the granting of the use variance will not substantially interfere with the Comprehensive Plan. The property is included in a Manufacturing Area in the Comprehensive Plan; however, directly across N Morton St/US Hwy 31, and for most of the length the N Morton St corridor, the Comprehensive Plan recommends Community Activity Center land uses. The proposed use is complimentary to Community Activity Center land uses; therefore, staff finds the approval will not substantially interfere with the Comprehensive Plan.

STAFF RECOMMENDATION – USE VARIANCE

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

1. Use variance approval is for one or two office uses (administrative/professional office) and approval is limited to and runs with the applicant, Matt Kwiatkowski, at the subject property, 3059 N Morton St.
2. While the use variance remains active and in effect on the property, no more than two business uses are permitted on the property.
3. Twenty-three (23) parking spaces shall be provided onsite. Ten (10) spaces are to be allocated for the use of the structure as an office, and the remaining thirteen (13) spaces are allocated for employees and business vehicles stored on-site.
4. The total number of on-site employees on any given shift and the number business vehicles stored on-site must not together exceed thirteen (13).
5. All applicable Federal, State, and Local permits / approvals shall be obtained prior to construction activity, including but not limited to: State Construction Design Release, Local Building & Sign Permits, etc.