



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: May 4, 2021 (REVISED #2)

Re: Cases ZB 2021-06 (V) | The Links at Franklin | MultiPro LLC

REQUESTS:

Case ZB 2021-06 (V)...The Links at Franklin. A request for three Developmental Standards Variances from the City of Franklin Zoning Ordinance, 1.) Article 3, Chapter 14, Lot Standards, to be permitted a side yard setback to be reduced from 50 feet to 45 feet, 2.) Article 5, Chapter 4, Gateway Overlay Standards, to be permitted to have the main entrance to a primary structure(s) to be located on the façade wall that does not front a public street, and 3.) Article 7, Chapter 17, Buffering & Screening Standards, to allow a modification to the required Buffer Yard Type 1 along the south property boundary line, in the RM: Residential Multi-family zoning district. The property is located on the south side of King St. at the intersection of Benjamin Drive and E. King St. The property wraps around the south side of Franklin Cove Apartments and connects with Umbarger Lane.

PURPOSE OF STANDARD:

The "RM", Residential: Multi-Family zoning district is intended to provide locations for a variety of multi-family uses, such as two-family dwellings, apartment homes and complexes, and condominiums. This district should be used to create high density residential developments in areas with compatible street systems, open space, and other related land uses and amenities.

ZONING:

Surrounding Zoning:

North: PUD: Planned Unit Development
MXC: Mixed-use, Community Center
MXR: Mixed-use, Regional Center
South: RT-1: Residential Traditional One
East: RM: Multi-family Residential
MXR: Mixed-use, Regional Center
IL: Industrial, Light
West: MXC: Mixed-Use, Community Center
RSN: Residential, Suburban Neighborhood

Surrounding Land Use:

North: Golfview Villas
Professional Offices
Vacant Commercial Lots
South: Agriculture crop field
East: Franklin Cove Apartments
Professional Office
Technical Threads
West: FD Station 22, Jefferson Gardens
Jefferson Pointe Duplexes

CONSIDERATIONS:

1. Petitioner, MultiPro, LLC, is proposing to develop a single-story multi-family development on the subject properties. Petitioner proposes 26 multi-family buildings, ranging from four (4) to eight (8) units in each building, and with a total of 162 dwelling units. [See [Exhibit A: Site Plan](#)]
2. Petitioner proposes two phases for the project, with both the first & second phases including 13 buildings, each, and 82 and 80 units, respectively. The first phase would be along King Street and run north-south along the west side of the subject properties. The second phase would connect to Umbarger Lane.

3. Phase 1 of the project would include: six 8-unit buildings, six 5-unit buildings, and one 4-unit building.
4. Phase 2 of the project would include: four 8-unit buildings, two 7-unit buildings, one 6-unit building, four 5-unit buildings, and two 4-unit buildings.
5. All buildings and units will be single-story and will provide a two car garage and driveway for each unit.
6. The property will utilize private streets, throughout, and all units will have vehicular access via the private streets.

Lot Standards – Side Yard Setback

7. According to Article 3, Chapter 14, Residential Multi-Family Lot Standards, the minimum side yard setback for primary structures is 50 feet.
8. *Variance 1: Petitioner is requesting a variance to allow building 7, as shown on Exhibit A, to be permitted to encroach on the 50 foot side yard setback, by up to 5 feet, and be allowed a side yard setback of 45 feet for this building alone. All other buildings would meet the setback requirements.*
9. The proposed “Building 7” would be 8 units and would be located adjacent the Franklin Cove Apartment property to the east. The existing Franklin Cove Apartment buildings that would be adjacent are setback approximately 40 from the same property line, on the opposite side.

Gateway Overlay Standards

10. According to Article 5, Chapter 4, Gateway Overlay District (GW-OL) Standards, the GW-OL standards apply to all properties located within its boundaries, except agricultural and single and two-family residential uses. As the proposed use is Multi-Family and located within the boundaries of the GW-OL district, the GW-OL standards are required to be met.
11. According to Article 5, Chapter 4, GW-OL Standards, Main Entrance: “The main entrance to the primary structure shall be located on the facade wall that fronts on a public street. If the structure fronts on 2 or more public streets, the main entrance shall be located on the facade wall that fronts on the street with the highest Thoroughfare Plan classification.”
12. Each building proposed under this plan is considered a primary structure and therefore, required to orient the main entrance(s) along a *public* street.
13. Petitioner is proposing a *private* street network throughout the project, including all units oriented to face the private streets. As the proposed streets are *private* and *not public*, the standard is not technically met.
14. *Variance 2: Petitioner is requesting a variance to allow all proposed structures and units to have the main entrance to be located on a façade wall that does not front a public street.*

Buffering & Screening Standards

15. According to Article 7, Chapter 17, Buffering & Screening Standards, a Buffer Yard Type 1 is required to be provided when a RM: Residential Multi-Family zoned property is developed and it abuts a RT-1: Residential Traditional One zoned property.
16. The subject properties are zoned RM: Residential Multi-Family and the entire south boundary line abuts property zoned RT-1: Residential Traditional One; therefore, a Buffer Yard Type 1 is required along the entire length of the south property line.
17. According to Article 7, Chapter 17, a Buffer Yard Type 1: “shall include a minimum setback of 10 feet in addition to the yard setback otherwise required by this Ordinance. In addition, 1 broad-leaf deciduous canopy tree must be planted in the buffer yard for every 30 feet of boundary between the subject and adjoining properties.”
18. *Variance 3: Petitioner is requesting a variance to allow a modification to the Level 1 Buffer Yard in the areas along the south property line where the existing sanitary sewer easement and proposed drainage easement are located. Petitioner proposes to shift half of the trees from the southern Type 1 Buffer yard to the Type 2 Buffer Yard along the western property line, adjacent to homes along Reagan Circle.*

Comprehensive Plan

19. 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.”

Interstate 65 Interchange Economic Development Plan

20. On June 16, 2015, the Redevelopment Commission (RDC) approved the Interstate 65 Interchange Economic Development Plan (the “Interchange Plan”) for the Franklin/I-65 Integrated Economic Development Area. The City of Franklin Plan Commission and Common Council declared their support for the Interchange Plan in April & May 2015, respectively, prior to its final adoption by the RDC. [See [Exhibit B: Interstate 65 Interchange Economic Development Plan \(Full\)](#)]
21. The subject properties are identified in the Interchange Plan as an important “Mid-Term Development Opportunity,” with Land Use recommendations for Mixed-Use Commercial & Residential uses, and designated these properties as part of “Area C” in the plan: “Area C presents an opportunity for mixed use development that may include residential components, or standalone, higher density residential buildings. One important factor to keep in mind is that whatever develops within Area C must be sensitive to the transition between those uses and the existing residential units to the west.”
22. The specific recommendations for Residential/Mixed Development character ([Exhibit B, Page 54](#)) are important to reference when considering the impact of the Board’s decision on of the above listed variances. The proposed development is the first in “Area C” of the plan, since the Interchange Plan was adopted.
23. In the Interchange Plan, specifically under Conceptual Plan for Residential/Mixed Use, it states “The current residential uses at the interchange do not take advantage of their proximity to the interchange. They do not benefit from the natural densities that are called for in such areas, and are not oriented in a way to help facilitate further development. In the southwest quadrant of the plan, potential for more dense residential uses are identified. These may take the form of a stand alone higher density facility, or may be a mix of residential and commercial uses. These uses may serve as a buffer between future commercial uses and the single family uses that are already in place north and west of the study area. It is important that any uses in this area are required to appropriately buffer and screen their impact from existing single-family homes along the western edge of the study area, just like it is important to buffer the commercial uses in the northwest quadrant from the existing residential uses along the north and west edge of the study area north of King Street.”

Zoning Ordinance

24. 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.
25. 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.

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 three variances will not be injurious to the public health, safety, and general welfare of the community. As it relates to the variance for the side yard setback, the general welfare will not be impacted, as 25 of the 26 buildings, and 156 of 162 dwelling units will meet or exceed the setback requirements. Moreover, petitioner is requesting a maximum encroachment of only 10% of the overall setback requirement. As it relates to the variance regarding the main entrances oriented to face a public street, staff finds approval will not be injurious, as petitioner is proposing for all units to be oriented with the main entry facing the private streets throughout the development. Moreover, the rationale for the development standard likely did not anticipate a multi-family development of this nature, that will function similarly to duplexes, albeit with up to eight units per building, where this requirement would not apply. As it relates to the modification of the Buffer Yard Type 1 along the south property boundary line, to shift half of the required trees to the Buffer Yard Type 2 area adjacent to the homes along Reagan Circle, staff finds a modification of this buffer yard will not be injurious to the general welfare, as petitioners are allocating this area for drainage and detention ponds, and the relocation of half the required landscaping in this area will not be injurious to this or adjacent properties.

- 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 the approval of the three variances will not substantially affect the use and value of the adjacent properties. As it relates to the variance for the side yard setback, the general welfare will not be impacted, as 25 of the 26 buildings, and 156 of 162 dwelling units will meet or exceed the setback requirements. Moreover, petitioner is requesting a maximum encroachment of only 10% of the overall setback requirement. As it relates to the variance regarding the main entrances oriented to face a public street, staff finds approval will not be injurious, as petitioner is proposing for all units to be oriented with the main entry facing the private streets throughout the development. Moreover, the rationale for the development standard likely did not anticipate a multi-family development of this nature, that will function similarly to duplexes, albeit with up to eight units per building, where this requirement would not apply. As it relates to the modification of the Buffer Yard Type 1 along the south property boundary line, to shift half of the required trees to the Buffer Yard Type 2 area adjacent to the homes along Reagan Circle, staff finds a modification of this buffer yard will not be deleterious to adjacent properties, as petitioners are allocating this area for drainage and detention ponds, and the relocation of half the required buffer yard landscaping in this area will not be injurious to this or 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:

Staff finds the strict application of the ordinance will result in practical difficulties related to the three variance requests. Staff finds it is not practical to strictly require a fifty foot side yard setback for “Building 7,” as petitioners are only requesting a reduction or encroachment of ten percent of the overall setback area

for one of twenty-six buildings, and the site is constrained due to a seventy foot setback for buildings on the opposite side of the private drive. Staff finds a practical difficulty in strictly applying the requirement of main entrances to buildings being located on a wall that fronts a public street, as petitioners have oriented all dwelling unit entries to be oriented toward the private street network throughout the development; petitioner could only meet the standard if the private drives were dedicated as public streets. Staff finds a practical difficulty in strictly applying the Buffer Yard Type 1 requirement along the south property line, as there is an existing sanitary sewer easement running the length of the property in the same area, and petitioners are providing this area for drainage and detention ponds.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **approval** of the petition with the following conditions, a. through d.:

- a. Approval of the side yard setback reduction to forty-five (45) is limited to “Building 7” as depicted on the site plan submitted with this request.
- b. The main entrance for all dwelling units must face, or be oriented toward, the private drives internal to this development.
- c. Approval of the Buffer Yard Type 1 modification is limited to the shifting/relocating of the required plantings. The Buffer Yard Type 1 setback distance must be provided.
- d. A maximum of fifty percent of the required Buffer Yard Type 1 plantings are permitted to be shifted/relocated to the Buffer Yard Type 2 and/or adjacent required setback area, adjacent to the homes along Reagan Circle. All plantings not shifted/relocated to said area, must be located within the required Buffer Yard Type 1 area along the southern boundary and/or within the adjacent required building setback area.
- e. Two (2) qualifying evergreen conifers can be substituted for every one (1) broad-leaf deciduous tree that is shifted from the Buffer Yard Type 1, to the Buffer Yard Type 2.