



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: May 28, 2021

Re: Cases ZB 2021-08 (UV) | 48 E Madison St | Franklin Heritage Inc.

REQUESTS:

Case ZB 2021-08 (UV): A request for Use Variance from the City of Franklin Zoning Ordinance Article 3, Chapter 10, to allow retail use (small scale) on the first floor, and an office use (administrative/professional office) on the second floor, in the RTN: Residential Traditional Neighborhood zoning district. The subject property is located at 48 E Madison St, and is 0.0826 acres in size (50' x 72').

PURPOSE OF STANDARD:

The "RTN," Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

ZONING:

Surrounding Zoning:

North: MXD: Mixed-Use, Downtown Center
South: MXD: Mixed-Use, Downtown Center
East: RTN: Residential, Traditional Neighborhood
West: MXD: Mixed-Use, Downtown Center

Surrounding Land Use:

North: Johnson County Museum
South: The Willard
East: Single-Family Residential
West: Professional Office

CONSIDERATIONS:

1. Franklin Heritage Inc., Petitioner, proposes a retail use (small scale; bookstore) on the ground floor, an office & meeting space use (administrative/professional office) on the second floor, and to apply the parking standards for the MXD: Mixed-Use Downtown Center to the Use Variance approval, at the subject property at 48 E Madison Street. [[Exhibit A: Floor Plans](#)]
2. Petitioner requested Use Variance approval in 2013, to allow the conversion of the residential structure into office and meeting space. The Board granted the Use Variance approval and applied the parking standards of the MXD zoning district. Petitioners have used the space in this manner since the 2013 approval.
3. Prior to the 2013 Office/Meeting space Use Variance, the property was used as a residence, and previously had been used as a hotel.
4. Petitioner now proposes to continue the same office/meeting space use, but to include a retail use on the ground floor.

Retail Use (Small Scale)

5. Retail Use (Small Scale) is defined as “Retail uses that tend to serve a local area and include establishments such video stores, delicatessens, bakeries, gift shops, and ice cream shops.”
6. According to Article 3, Chapter 2, Land Use Table, Small Scale Retail also includes, art or photo gallery, flower shop, news dealer/bookstore, stationary shop, jewelry store, antique shop and meat market.
7. Retail Use (Small Scale) is listed as a permitted use in the MXD (Mixed Use: Downtown Center), MXN (Mixed Use: Neighborhood Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center) zoning districts.
8. Retail Use (Small Scale) is listed as a special exception use in the RT-1 (Residential, Traditional One), RT-2 (Residential, Traditional Two), and RT-3 (Residential, Traditional Three) zoning districts.

Office Use/Meeting Space

9. 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.”
10. 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 RTN (Residential: Traditional Neighborhood) zoning district.
11. 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.
12. Office Use (including Administrative/Professional Office) is listed as a special exception use in the MXN (Mixed Use: Neighborhood Center) zoning district.

Use Variance Request

13. Use Variance: *Petitioner is requesting a variance of use to be permitted to operate a retail use (small scale; bookstore) and an office use (office/meeting space) in the RTN: Residential, Traditional Neighborhood zoning district.*

Parking

14. 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.”
15. According to Article 7, Chapter 10, Parking Standards, there are no minimum parking requirements for the MXD zoning district. The subject property, albeit located in the RTN district, is immediately adjacent to the MXD district on three of four sides, and is approximately 200 feet from a public parking lot.
16. The requested uses, Retail (Small Scale) and Office use are both permitted in the MXD district.
17. *Petitioner requests, and staff recommends, the parking standards of the MXD district be applied to requested use, should the Board find evidence to approve the Use Variance request.*

Comprehensive Plan

18. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Core Residential. “The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin’s historically significant homes. Land uses in these areas should be dominated by a diversity of single-family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated. The most

significant land use relationships in this area are between the area's residential and non-residential uses, and between the area as a whole and the downtown. The area's mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area's sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes."

19. The 2013 Comprehensive Plan, Future Land Use Map, identifies the area across Madison Street from the subject property, 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."

Zoning Ordinance

20. 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.
21. 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. Use of the subject property as proposed would contribute to the goals of the Comprehensive Plan for the Core Residential area, to which the subject property is located, as well as the Downtown area, which is identified directly across Madison Street. The proposed retail use and office space will contribute to the character and mixed-use of the area, while supporting human-scale features and walkability. This property is immediately adjacent, on three of four sides, to the MXD zoning district, which does not have a required minimum parking requirement, and is two-hundred feet from a large public parking lot; therefore, staff recommends the proposed uses be treated as MXD permitted uses and to not require on-site parking.

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 RTN district, would be permitted on three of four properties immediately adjacent. Moreover, petitioner is not planning to make substantial physical changes to the structure or site that would change the appearance as it currently exists.

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 property is immediately adjacent to MXD zoned properties on three of four sides, and the proposed use would be permitted in the MXD district. Moreover, the structure has been used for, and is permitted to continue to be used for office and meeting space since 2013, when the Board approved a use variance.

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 is immediately adjacent to MXD zoned properties on three of four sides, and the proposed use would be permitted in the MXD district. Moreover, the structure has been used for, and is permitted to continue to be used for office and meeting space since 2013, when the Board approved a use variance.

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. Use of the subject property as proposed would contribute to the goals of the Comprehensive Plan for the Core Residential area, to which the subject property is located, as well as the Downtown area, which is identified directly across Madison Street. The proposed retail use and office space will contribute to the character and mixed-use of the area, while supporting human-scale features and walkability; 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 retail use (small scale: bookstore) on the first level, and office use (office and meeting space) on the second level, and approval is limited to and runs with the applicant, Franklin Heritage Inc., at the subject property, 48 E Madison St.
2. While the use variance remains active and in effect on the property, no more than two commercial uses are permitted on the property.
3. The MXD: Mixed-Use Downtown Center zoning district parking standards are applied to the subject property; no on-site parking is required.
4. 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.