

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

June 2, 2021

Members Present

Jim Martin
Phil Barrow
Charlotte Sullivan
Ashley Zarse

Chairman
Vice Chairman
Secretary
Member

Members Absent

Brian Alsip

Member

Others Present

Alex Getchell
Lynn Gray

Senior Planner I
Legal Counsel

Call to Order

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

Roll Call & Determination of Quorum

Approval of Minutes

Phil Barrow made a motion to approve the minutes of May 5, 2021. Charlotte Sullivan seconded. The motion passed unanimously, 4-0.

Swearing In

Ms. Gray swore en masse anyone planning to speak.

Old Business

None.

New Business

ZB 2021-08 (UV) – Franklin Heritage – Alex Getchell introduced this use variance request for the property at 48 East Madison Street. The property is zoned RTN (Residential: Traditional Neighborhood). The Comprehensive Plan calls for this and surrounding properties to be Core Residential. However, it also specifies the Downtown area as being directly across from Madison Street. The request is to allow a retail use, small scale, and an office use with meeting space in the RTN district. Because this is a residential district, commercial uses of this nature are not permitted. This property received BZA use variance approval in 2013 to allow for the entire structure to be an office and meeting space. The current request is to be able to use the first floor for retail use and the second floor for office and meeting space. The property is directly across Madison Street from the Willard and directly south of the

Johnson County Museum. There is a ramp on the north side of the structure that is intended to be used for ADA purposes.

Danny Causey of Franklin Heritage presented. Wild Geese Bookstore will be moving in to the first floor retail space area. The only building change is the handicapped ramp. There will be an ADA restroom, and one door must be opened up to accomplish that. Mr. Causey reviewed the decision criteria.

General Welfare: He stated signatures of support were secured from everyone on the block and others. The new tenant will not impact parking and is compatible with the Comprehensive Plan and current zoning.

Adjacent Property: He stated the structure will be improved. All neighbors able to be contacted expressed their support. Three of the four adjacent properties are the mixed-use zoning.

Peculiar Situation: He stated all surrounding properties are mixed-use zoning. This is the first property to be zoned residential, so the peculiar situation arises.

Unnecessary Hardship: Mr. Causey reviewed explanations already presented in both criterion two and three.

Comprehensive Plan: He stated their building will contribute to the Comprehensive Plan goals in both the residential and downtown areas.

Mr. Causey also expressed the acceptance by Franklin Heritage of staff's four recommended conditions as presented in the staff report.

Mr. Getchell highlighted that with a use variance request the board is required to specify the number of parking spaces required. The petitioner requested that the parking space requirements for the MXD zoning district be applied, which the MXD zoning district has no parking requirements. Staff is in agreement and support of that request.

Chairman Martin held a public hearing with no respondents. The public hearing was closed. There being no further questions or comments from the Board, Chairman Martin requested staff's recommendation.

Mr. Getchell presented staff's recommendation for approval as outlined in the staff report, with the following conditions:

- a. 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.
- b. While the use variance remains active and in effect on the property, no more than two commercial uses are permitted on the property.
- c. The MXD: Mixed-Use Downtown Center zoning district parking standards are applied to the subject property; no on-site parking is required.
- d. 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.

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

Mr. Causey asked that the news of Wild Geese Bookstore's relocation be kept quiet until she chooses to announce it.

ZB 2021-09 (V) – 129 Arvin Rd – Mr. Getchell explained the need for a waiver on the rules of procedure. With every letter sent out to adjoining properties there is to be an accompanying explanatory flyer, but it was not included. The petitioner did include a copy of the legal ad giving all the required pertinent information. Ms. Gray summarized that they met all statutory requirements, just failed on internal city policy.

Ms. Sullivan made a motion to waive the internal requirement for an accompanying flyer. Ashley Zarse seconded. Motion passed unanimously, 4-0.

Mr. Getchell introduced the developmental standards variance request. The property is residential but zoned IBD (Industrial: Business Development). It is a legal non-conforming use. The Comprehensive Plan calls for it to be a business development area. The request is to allow a fence to be placed in a required front yard setback. In commercial and industrial zoning districts, fences are not permitted to be located inside a front yard setback at all. Front yard fences on residential properties are allowed, but height is restricted. They are requesting a six-foot fence for a 72-foot section running along their parking area and a three and a half foot fence for the remainder of the property. The property abutts Arvin Road which is considered a collector street by the city, and where there is a collector street, the setback is 50 feet in the IBD (Industrial: Business Development) district. Petitioner's request is for the fence to be located 20 feet from the front property line. Previously there was a dense vegetation in the area the fence is proposed; however, it was cleared by the utility company, and now no screening exists and is the basis for petitioner's fence request.

Petitioner Rebecca Graham reviewed the decision criteria.

General Welfare: She explained that vegetation has always been there since the initial build of the home 60 years ago. It will be off the road and safe, not harming anyone.

Adjacent Property: She stated there are only factories across the street.

Practical Difficulty: She stated it is solely for the purpose of blocking their property from trash and debris and will look better than the former vegetation ever did.

Chairman Martin held a public hearing with no respondents. The public hearing was closed. There being no further questions or comments from the Board, Chairman Martin requested staff's recommendation.

Mr. Getchell presented staff's recommendation for approval as outlined in the staff report, with the following conditions:

- a. A fence six (6) feet in height shall be permitted no closer than 20 feet to the north property line of 129 Arvin Road, and is limited to a maximum of seventy-two (72) feet in length, starting east of the existing driveway and running parallel with Arvin Road, toward the east. The remaining length of the fence line is permitted a maximum of three-and-a-half (3.5) feet in height, no closer than 20 feet to the north property line, running parallel with Arvin Road and terminating at the east property line.
- b. Approval is limited to a wood, or similar material, privacy fence line running in an east-west direction and presenting the non-structural face to the north for the width of the subject property east of the existing driveway.
- c. Chainlink, chainlink with slats, wrought-iron, or similar non-opaque fence types are not included in the fence variance approval.
- d. Approval does not supersede the rights of utilities and/or easement holders along the north end of the subject property.

Ms. Graham asked if a wood frame fence with metal was permissible, and Mr. Getchell assured it was. Ms. Graham agreed to staff's conditions.

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

ZB 2021-10 (V) – Taco Bell of America – Mr. Getchell introduced three developmental standards requests. The property is 1579 N Morton Street. It is zoned MXC (Mixed Use: Community Center) and is located in the Gateway Overlay district. The Comprehensive Plan Land Use Plan calls for a community activity center. The first variance request is to allow a dumpster enclosure in a front yard on the North Main Street side. The property is a dual frontage lot, both on US31 and Main Street. The location of the new dumpster enclosure is similar to the existing dumpster. The petitioner is proposing to demolish the current site and rebuild on the same property. The second request is to be allowed to plant broadleaf and deciduous trees with a two-inch caliper measurement at time of planting. The current ordinance requires a two and a half inch caliper tree. A zoning ordinance amendment is in process, that would reduce the deciduous tree measurement at planting to two-inch caliper, as petitioner is requesting. City Council will hear the amendment next Monday. The proposed Zoning Ordinance amendment has been forwarded to City Council from Plan Commission with a favorable recommendation. Petitioner's proposal is in line with the proposed ordinance amendment. The third variance request is to allow a 12-foot drive through lane width. The current ordinance requires a minimum of 13 feet for a one-way drive with no parking. The Zoning Ordinance amendment before City Council would also allow an 11-foot drive through width. Petitioner's proposal will actually be in excess of the proposed ordinance. They are proposing two drive-through lanes. One will be a mobile pick up lane and one a drive through.

Sarah McGowan represented Taco Bell and went through the decision criteria.

General Welfare: She stated the dumpster will be located further in to the property with enhanced screening than the current location. The landscape caliper will meet or exceed what is before City Council. The drive through width is to insure enough room for the cars.

Adjacent Property: She stated the requests are bettering the property. The landscape caliper and drive through width meet or exceed the proposed ordinance amendments.

Practical Difficulty: She stated it is a unique site with public right-of-way on both sides. With two drive-throughs, the layout had to be pulled in making the front setback even further.

Chairman Martin held a public hearing with no respondents. The public hearing was closed.

Mr. Barrow asked if the building will be the same size. Ms. McGowan explained that it will be narrower and longer but similar in square footage.

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

Mr. Getchell gave staff's recommendation for approval, as outlined in the staff report, with no conditions.

Mr. Barrow made a motion for approval. Ms. Sullivan seconded. The motion passed unanimously, 4-0.

ZB 2021-11 (V) – BDH Realty, LLC – Mr. Getchell introduced three developmental standards variance requests for the property at the southwest corner of Simon Road and US31. It is zoned MXC (Mixed Use: Community Center) and located in the Gateway Overlay district. The Comprehensive Plan calls for the area to be a Community Activity Center. The applicant is proposing an automated car wash with a

vacuum area on the north side of the site. The first request is to allow the accessory structures of vacuums and pay stations in a front yard. The second request is for interior drive widths to be 11 feet. Due to the Gateway Overlay district, the third request is that the main customer entrance not front North Morton Street. The main customer entrance is required in the Gateway Overlay district to face the highest classified road. Vehicles will be entering from the west end of the building as proposed, opposite from North Morton Street.

Ms. Gray asked if there will be any direct access to US31. Mr. Getchell explained there will not be direct access to 31. From Simon Road there will be a private drive for the entire new subdivision so the property will receive access from that private drive, connecting to Simon Road and aligning with the drive behind Freddy's.

John Haines of BDH Realty presented, giving an overview of the development. The site plan proposing the exit to face 31 is to direct vacuum and dryer noise to the street where noise already exists and not west towards residential areas. Mr. Haines further explained they have two front yards in US31 and Simon Road which is the practical difficulty. He reviewed the rationale and details of each of their variance requests. Mr. Haines continued with the decision criteria.

General Welfare: He stated they agreed with staff that there will be no negative effect to the general welfare by any of the three variances.

Adjacent Property: He stated they agreed with staff that there would be no adverse affects to adjacent properties. Mr. Haines believed it would only enhance property values and increase traffic to surrounding businesses.

Practical Difficulty: He stated they agreed with staff especially on the difficulty with regards to the pay stations. He stated moving the building to the north would result in the exits of the car wash to the west, two front yards make it impossible to layout the lot with the vacuums not in the front yard, and if they were placed elsewhere, it would result in a worse situation for the residential uses to the west, as it would result in more noise from air dryers and vacuums, and headlights directed to the west as vehicles exit the wash.

Mr. Martin held a public hearing with no respondents.

Mr. Getchell presented staff's recommendation: If the Board finds evidence to approve the variance petitions, which staff now believes they have provided that evidence, staff recommends the following conditions of approval, as outlined in the staff report:

- a. A continuous hedge a minimum three feet in height shall be provided along the north boundary of the vacuum area and on either side of the pay station area, as depicted by Exhibit G: Hedge Plan.
- b. Vacuum stations and pay stations shall not include primary colors, nor include any signage other than instructions on how to operate the vacuums and pay for services on-site.
- c. All parts of the vacuum stations and pay stations must be fifty feet or more from the Simon Road right-of-way.

Mr. Haines expressed agreement to staff's three recommended conditions. Ms. Sullivan made a motion for approval with the recommended conditions. Mr. Barrow seconded. The motion passed unanimously, 4-0.

Other Business

None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 7th day of July, 2021.

Jim Martin, Chairman

Charlotte Sullivan, Secretary