



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: July 2, 2021

Re: Cases ZB 2021-12 (UV/V) | 28 N Crowell St | Christine R. Chung

REQUESTS:

Case ZB 2021-12 (UV/V): A request by Christine R. Chung, for Use Variance from the City of Franklin Zoning Ordinance Article 3, Chapter 10, to allow an auto-oriented use (medium scale: auto repair and body shop) in the RTN: Residential, Traditional Neighborhood zoning district, and a Developmental Standards Variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 10, Parking Standards, to allow fewer parking spaces for a use permitted by Use Variance, in the RTN: Residential, Traditional Neighborhood zoning district. The subject property is located at 28 N Crowell St, and is 0.1423 acres in size (approx. 6,200 sq. ft.).

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: RTN: Residential, Traditional Neighborhood

South: MXD: Mixed-Use, Downtown Center

East: RTN: Residential, Traditional Neighborhood

West: RTN: Residential, Traditional Neighborhood

Surrounding Land Use:

North: Single-Family Residential

South: Single-Family Res., Irish Brothers Pest Control, The Cleaning People

East: Depot Park, Railroad, Hoosier Cupboard, Two-family Residential

West: Church

CONSIDERATIONS:

1. Christine R. Chung, Petitioner, proposes an auto-oriented use (medium scale; auto repair and body shop), and for a reduction of parking standards for a use permitted by Use Variance, at the subject property at 28 N Crowell Street. [See [Exhibit A: Petitioner's Project Details](#) and [Exhibit B: Building Photos](#)]
2. According to the petitioner, the subject building was constructed on the property in the 1970's by Franklin Community Schools for maintenance and repair of school buses. More recently, prior to current ownership, the structure was used for storage and as a plumbing contractor warehouse. According to the Johnson County Online Assessor's data, the subject building is 2,700 sq. ft. in size.
3. Petitioner now proposes to use the property for an auto repair business, "Paul's Auto Repair" owned and operated with one employee, petitioner's brother, Paul Chung, an ASE Certified mechanic.

4. Petitioner offers the following commitments (See [Exhibit A: Petitioner's Project Details](#)):
 - A. "Work is done by appointment only, no regular "open" business hours."
 - B. "All automotive customer cars that exceed the 4 outside parking spaces will be parked inside the garage on the property."
 - C. "No public or city parking will be used for business purposes."
 - D. "A waste disposal company is used to transport all hazardous waste away from the property regularly."

Auto-Oriented Use (Medium Scale)

5. Auto-Oriented Uses (Medium Scale) is defined as "Uses such as auto repair and body work, vehicle detailing/auto accessory sales and installation, oil change/lube shops, and others listed under the heading of Auto-Oriented Uses, Medium Scale by the Land Use Matrix included in this Ordinance. This does not include any uses listed under the headings of auto-oriented uses large or small scale."
6. Auto-Oriented Uses (Medium Scale) is listed as a permitted use in the MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center) zoning districts.
7. Auto-Oriented Uses (Medium Scale) is listed as a special exception use in the MXR (Mixed Use, Regional Center), and IBD (Industrial, Business Development) zoning districts.
8. Auto-Oriented Uses (Medium Scale) is listed as a NON-PERMITTED use in the RTN (Residential, Traditional Neighborhood) zoning district.

Use Variance Request

9. Use Variance: *Petitioner is requesting a variance of use to be permitted to operate an auto repair/auto body shop use in the RTN: Residential, Traditional Neighborhood zoning district.*
10. *Petitioner is proposing to operate "by appointment only" and offers to commit to parking up to 4 vehicles outside of the facility, and all others would be stored inside.*

Parking Standards Development Standards Variance

11. 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."
12. 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):
 - i. Every 200 sq. ft. in any car repair or modification facility;
 - ii. Each employee working on the largest shift; and
 - iii. Each business vehicle stored on-site.
 - iv. 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.
13. Therefore, according to Article 7.10, the number of off-street parking spaces required for the proposed use are as follows:
 - i. Auto-Repair Facility square footage (2,700 sq. ft.): 14 spaces
 - ii. Employees on largest shift (1): 1 spaces (Paul Chung only)
 - iii. Business vehicles (0): 0 spaces
 - iv. Disabled Persons spaces required: 1 spaces
 - v. TOTAL SPACES REQUIRED: 15 spaces
 - vi. TOTAL SPACES PROPOSED: 4 spaces

14. 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.
15. All required parking spaces must be designed to provide direct access for vehicles. Parking spaces in a garage cannot be considered a parking space meeting the requirements of the ordinance if a parked vehicle in a parking space in front of the garage prevents direct access to the parking spaces in the garage or carport (e.g. double-, triple-stacking parked vehicles is only counted as one parking space meeting the requirements of the ordinance).
16. Development Standards Variance: *Petitioner requests to be allowed (4) four parking spaces, instead of 15 or more, as is outlined by the Zoning Ordinance, for auto-oriented uses (medium scale), where permitted in other zoning districts.* Petitioner would repair and store vehicles inside the facility; however, those spaces cannot be counted as a required parking spaces, as they do not have direct access.

Comprehensive Plan

17. 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.”
18. The 2013 Comprehensive Plan, Future Land Use Map, identifies the area across the alley (south) 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

19. 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.
20. 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 may be injurious to the public health, safety, or general welfare of the community. Auto repair is not a land use consistent with the goals of the Comprehensive Plan for the Core Residential area, to which the subject property is located, nor the Downtown area, which is identified directly across the alley. However, petitioner proposes an auto repair operation “by appointment only” and with only one employee; therefore, in theory there will be few daily on-site customer interactions. Petitioner has proposed a maximum of four cars parked outside and none in the public parking spaces; all others would be kept inside the facility. Staff has concerns for the general welfare related to inoperable vehicles, and vehicles in various states of disrepair being stored and worked-on, on-site; with only one employee and limited shop and property storage space, a backlog of vehicles could develop, with limited remedies to store or screen vehicles out of sight. Furthermore, auto repair involves various flammable and/or combustible materials; staff is unsure if the structure is properly designed and protected to house an auto repair facility.

- 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 could be affected in a substantially adverse manner, as the proposed auto repair use is not envisioned for single-family residential districts, nor the MXD: Mixed-use, Downtown Center zoning district. Moreover, the subject structure is approximately five (5) feet from a legal conforming single-family residence to the north; an active auto repair facility could create significant land use conflicts with that adjacent property, ultimately affecting its use and value. However, petitioner proposes an auto repair operation “by appointment only” and with only one employee; therefore, in theory there will be few daily on-site customer interactions and less of the typical auto repair facility potential nuisances that occur with a larger operation. Moreover, petitioner has proposed a maximum of four cars parked outside and none in the public parking spaces; all others would be kept inside the facility. Albeit nearly 50 years ago, the subject structure was originally designed for school bus maintenance & repair. Staff has concerns for the value of adjacent properties, related to inoperable vehicles, and vehicles in various states of disrepair being stored and worked-on, on-site; with only one employee and limited shop and property storage space, a backlog of vehicles could develop with limited remedies to store or screen vehicles out of sight.

- 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 was originally used for school bus repair and maintenance, and has continued to be used in a commercial manner, though not always auto repair-related, ever since. Moreover, the structure and property are not suited for permitted uses, as outlined by the RTN, Residential Traditional Neighborhood zoning district, as the structure is a metal structure with overhead doors on either end and the property is long and narrow.

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 subject property was originally used for school bus repair and maintenance, and has continued to be used in a commercial manner, ever since. Moreover, the structure and property are not suited for permitted uses, as outlined by the RTN, Residential Traditional Neighborhood zoning district, as the structure is a metal structure with overhead doors on either end and the property is long and narrow.

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 may interfere with the Comprehensive Plan, as auto repair is not a land use consistent with the goals of the Comprehensive Plan for the Core Residential area, to which the subject property is located, nor the Downtown area, which is identified directly across the alley. However, petitioner proposes a small auto repair operation “by appointment only” and with only one employee; therefore, in theory there will be few daily on-site customer interactions. Petitioner has proposed a maximum of four cars parked outside on-site, and none in the public parking spaces; all others would be kept inside the facility. Staff is unsure if the granting of the use variance would rise to the level of *substantial* interference with the Comprehensive Plan.

STAFF RECOMMENDATION – USE VARIANCE

Based on the written findings above, staff recommends **denial** of the petition.

If the Board finds evidence to support the decision criteria listed above, staff recommends the following conditions of approval:

- a. Use variance approval is for auto-oriented use (medium scale: auto repair & body shop) and is limited to and runs with the applicant, Christine R. Chung, at the subject property, 28 N Crowell St.
- b. 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.
- c. State Design Release for a Change of Use, from the Indiana Department of Homeland Security – Building Plan Review Branch, and all required conditions of approval must be approved and completed prior to operation of the auto repair use on-site.
- d. While the use variance remains active and in effect on the property, it shall be the only use permitted on the property.
- e. All work is to be scheduled and completed by appointment only and all work must be completed inside the building.
- f. A maximum of four (4) qualifying parking spaces are permitted on the exterior of the building; one (1) of which must be ADA compliant; all others must be a minimum of 9’ x 18’. Qualifying parking spaces must be provided on a hard surface (asphalt or concrete only) on the exterior of the building, and the spaces must be striped with appropriate pavement markings. Crushed stone or gravel is not a qualifying parking surface.
- g. Vehicles are prohibited from parking outdoors on-site if not in a qualifying parking space.
- h. Vehicles to be maintained and/or repaired will not be stored in public parking spaces.
- i. Inoperable vehicles, whether by physical status (mechanical, electrical, flat tire(s), accident, flood, etc) and/or legal status (proper licensing and registration, etc.), are expressly prohibited from being parked or stored on-site on the exterior of the building, and from being parked or stored in public parking spaces. Inoperable vehicles must be stored inside the building at all times.

- j. Vehicle parts, body panels, fluids, accessories, tires, wheels, etc., whether new, damaged, or under refurbishment must be stored inside the building at all times.
- k. Hazardous waste shall not be permitted to accumulate, nor be stored in an unsafe manner on-site and must be removed by a qualified waste disposal company, regularly.
- l. Sound restriction: Except during the hours of seven a.m. and nine p.m., no sounds should be emitted from any motor vehicle, machinery, machine or device, power tools, and/or construction equipment located on the property, if the sound generated therefrom is clearly audible by another person at a distance of fifty (50) feet or more from the nearest property line of the property upon which the sound source is located.

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 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 approval of the proposed variance could be injurious to the public health, safety, morals, and general welfare of the community. Inherently, an auto-oriented use (auto-repair/auto-body shop) is a business that revolves around automobiles, and more particularly, automobiles not operating properly, or in various states of disrepair. Petitioner is proposing the auto-oriented use on a site that has very limited space for said automobiles. Additionally, the subject property is located within a residential zoning district and within five feet of a single-family residence, with no opportunity to buffer or protect from the daily operations of an auto-oriented use, such as an auto repair shop. Approval of the reduction in required parking could lead to customer vehicles regularly being parked and/or stored in public parking spaces, and/or an oftentimes unsightly property due to inoperable vehicle storage, and limited space to store them out of sight. However, staff finds approval of the parking variance may not be injurious to the general welfare, if petitioner can commit to upholding the recommended conditions of approval of the use variance and this development standards variance, which limits inoperable vehicles to inside the building only, no business related parking in public parking spaces, and the operation of the business by appointment only.

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 use and value of adjacent properties could be affected in a substantially adverse manner, as a drastic reduction of parking spaces for an auto-oriented use (auto-repair/body shop) could lead to customer vehicles, whether operable or inoperable, occupying public parking spaces and/or overfilling the site and general vicinity. Moreover, the lack of parking and ability to properly screen customer vehicles could lead to an unsightly property; therefore the use and value of adjacent properties could be affected in a substantially adverse manner. However, staff finds approval of the parking variance may not be deleterious to adjacent properties, if petitioner can commit to upholding the recommended conditions of approval of the use variance and this development standards variance, which limits inoperable vehicles to inside the building only, no business related parking in public parking spaces, and the operation of the business by appointment only.

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:

The strict application of the ordinance may result in practical difficulties in the use of the property, as the subject property has very limited locations for on-site parking, and all vehicle storage inside the facility cannot count toward the required number of qualifying parking spaces. However, staff is unsure if this situation could be considered self-imposed, as petitioner is requesting a use variance, for a parking intense use, at a property that is significantly deficient in terms of parking availability.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE

Based on the written findings above, staff recommends **denial** of the petition.

If the Board finds evidence to support the decision criteria listed above, staff recommends the following conditions of approval:

1. All work is to be scheduled and completed by appointment only and all work must be completed inside the building.
2. A maximum of four (4) qualifying parking spaces are permitted on the exterior of the building; one (1) of which must be ADA compliant; all others must be a minimum of 9' x 18'. Qualifying parking spaces must be provided on a hard surface (asphalt or concrete only) on the exterior of the building, and the spaces must be striped with appropriate pavement markings. Crushed stone or gravel is not a qualifying parking surface.
3. Vehicles are prohibited from parking outdoors on-site if not in a qualifying parking space.
4. Vehicles to be maintained and/or repaired will not be stored in public parking spaces.
5. Inoperable vehicles, whether by physical status (mechanical, electrical, flat tire(s), accident, flood, etc) and/or legal status (proper licensing and registration, etc.), are expressly prohibited from being parked or stored on-site on the exterior of the building, and from being parked or stored in public parking spaces. Inoperable vehicles must be stored inside the building at all times.