



## 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:** July 6, 2021 (UPDATED)

**Re:** Cases **ZB 2021-13 (UV/V) | 1058 E State Road 144 | Westview Village**

### REQUESTS:

**Case ZB 2021-13 (UV/V) Westview village:** A request by Wallick Asset Management LLC, for a Variance of Use to allow a 64-dwelling unit Retirement Facility (age restricted: 62 and older) in the MXN: Mixed-use, Neighborhood Center zoning district, and a Developmental Standards Variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 2, Height Standards, to exceed the maximum height permitted and be allowed a maximum of 50 feet (35 feet maximum is permitted). The subject property is located at 1058 E State Road 144, and is approximately 5.66 acres in size.

### PURPOSE OF STANDARD:

The “MXN”, Mixed Use: Neighborhood Center zoning district is intended to provide convenience goods, services, and amenities within close proximity of residential areas. This district is further intended to permit the development of traditional, mixed-use neighborhood centers. This district should be protected from non-neighborhood serving land uses.

### ZONING:

#### Surrounding Zoning:

North: RS-1: Residential, Suburban One  
South: RSN: Residential, Suburban Neighborhood  
MXN: Mixed-Use, Neighborhood Center  
East: MXN: Mixed-Use, Neighborhood Center  
PUD: Planned Unit Development  
West: RS-1: Residential, Suburban One

#### Surrounding Land Use:

North: Vacant; Floodplain  
South: Single-Family Residential  
East: American Health Network  
Camelot Commons (Single-Family Res.)  
West: Vacant; Floodplain

### CONSIDERATIONS:

1. Wallick Asset Management LLC, Petitioner, proposes a 64-dwelling unit Retirement Facility (age restricted: 62 and older), to be known as Westview Village, at the subject property at 1058 E State Road 144. The facility would be three levels, with 20 units on the first level and 22 on both the second and third levels. Petitioner is requesting a variance for a maximum height of 50 feet; however, the preliminary building elevations indicate a maximum height of 46'-1". [See [Exhibit A: Site Plan](#); [Exhibit B: Floor Plans](#); and [Exhibit C: Building Elevations](#)]
2. The proposed facility would have 12 two-bedroom units and 52 one-bedroom units. All units would have private kitchens and laundry hook-ups, while the overall facility would include a large community room, office & meeting rooms, a fitness center, library/computer room, and a community laundry room.

3. The retirement facility would have a small medical office, but the overall development would not be a licensed health care facility like assisted living or dementia care; this development would be multi-family independent living with an eligible age restriction of age 62 or older.

#### **Conceptual Plans**

4. Petitioner provided conceptual plans [See [Exhibit A](#); [Exhibit B](#); and [Exhibit C](#)] for the proposed layout of the site and the general size, design, and massing of the proposed structure. The proposed plans are entirely conceptual and have not been reviewed by the City nor Technical Review Committee for compliance with the Zoning Ordinance or building codes.
5. Details regarding the parking, drainage, landscaping, utilities, etc. will be discussed at the Site Development Plan stage.

#### **Retirement Facility Use**

6. Retirement Facility Use is defined as “A residential complex containing multi-family dwellings designed for and occupied by senior citizens. Such facilities may include a common gathering and dining facilities, but exclude nursing care.”
7. Retirement Facility Use is listed as a permitted use in the RM (Residential: Multi-Family) and IN (Institutional) zoning districts.
8. Retirement Facility Use is listed as a special exception use in the MXD (Mixed-Use, Downtown Center), MXC (Mixed-Use, Community Center), and MXR (Mixed-Use, Regional Center) zoning districts.
9. Use Variance: *Petitioner is requesting a variance of use to be permitted to operate a 64-dwelling unit retirement facility in the MXN: Mixed-Use, Neighborhood Center zoning district.*

#### **Building Height Variance**

10. According to Article 7, Chapter 2, Building Height, 35 feet is the maximum primary structure height permitted in the MXN: Mixed-use, Neighborhood Center zoning district.
11. Variance: *Petitioner is requesting a development standards variance to be permitted up to 50 feet for the primary structure height.* [[Exhibit C: Building Elevations](#)]
12. Petitioner states the request for 50 feet maximum height, instead of the 46’-1” shown on the building elevations, is due to their architects requesting for a height buffer in case the design turns out a bit higher than they anticipated. [See [Exhibit: C](#)]

#### **Parking Standards**

13. According to Article 7, Chapter 10, Parking Standards, Requirements for Non-conforming Uses and Uses Permitted by Special Exception or Variance: 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 nonconforming 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.
14. According to Article 7, Chapter 10, Parking Standards:
  - A. Space Requirements: A minimum of **2.0 off-street parking spaces are required** for each dwelling unit associated with Multi-Family Dwellings; therefore, the retirement facility portion is required 2.0 parking spaces X 64 units = 128 parking spaces.
  - B. Space Requirements: A minimum of **1 off-street parking space is required for every employee working on the largest shift.** Petitioner claims the overall facility will employ 4 employees on first shift; however, employees would also be on call 24-hours a day.
  - C. Space Requirements: **One (1) off-street parking space is required for every business vehicle** stored on-site. *Petitioner has indicated that since this is an independent living facility and not an assisted living or nursing care facility, no transport van/bus will be provided and no other business vehicles will be stored on-site.*

D. Parking of the Disabled:

6. At least one (1) space must be reserved for disabled persons for every 25 parking spaces provided; OR
7. Equal one (1) space for every handicap-accessible dwelling unit, whichever is greater; AND
8. Must be 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.

E. Minimum parking stall size is 9' x 18' and must be striped.

F. Each parking space must be paved with asphalt or concrete.

**Comprehensive Plan & Zoning Ordinance**

15. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Neighborhood Activity Center. "Neighborhood activity centers are intended to fill a unique role by establishing gathering spaces and/or convenience goods and services in close proximity to neighborhoods. Common uses in neighborhood activity centers may include neighborhood scale churches, schools, parks, and commercial centers. Appropriate commercial activities in neighborhood activity centers include convenience stores, cafes, coffee shops, and other providers of day-to-day convenience goods and services. Residential uses, in the form of apartments located on the upper floors of businesses, are encouraged in neighborhood activity centers."
16. 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.
17. 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 approval of the use variance for a retirement facility will not be injurious to the public health safety, morals, and general welfare of the community. The general vicinity is primarily characterized by single-family residential uses, but also includes the American Health Network immediately adjacent, the Optum Health facility across SR 144, and the Franklin Meadows assisted living/long-term nursing care facility. Moreover, a landscape Type-2 buffer yard is required to be provided along the subject property's western and southern boundary and the property is well served with vehicular access on Commons Way, easily connecting the property to Westview Drive, SR 144, SR 44, and W. Jefferson Street.

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 adjacent properties would not be affected in a substantially adverse manner, as the proposed use and structure are placed and oriented in a manner that will not be intrusive nor crowd adjacent uses. Albeit proposed to have a height of up to 50 feet, the project would only be three stories and all windows would be below 30 feet in height, which is less than the maximum height allowed by right in the MXN district. The additional building height requested would afford petitioner the opportunity to use a steeper, more residential appearance for the roof-pitch. Moreover, a landscape Type-2 buffer yard is required to be provided along the subject property's western and southern boundary and the property is well served with vehicular access on Commons Way, easily connecting the property to Westview Drive, SR 144, SR 44, and W. Jefferson Street.

**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 size and shape of the subject property, along with the location tucked behind the American Health Network, make the property less desirable for permitted uses in the MXN district; and whereas, this location is favorable for a multi-family retirement facility that also seeks close connections to other community assets, such as Johnson Memorial Hospital, health providers, as well as, retail and dining options, while still having a more secluded feel, tucked behind the American Health Network and fronting Commons Way.

**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 size and shape of the subject property, along with the location tucked behind the American Health Network, make the property less desirable for permitted uses in the MXN district; and whereas, this location is favorable for a multi-family retirement facility that also seeks close connections to other community assets, such as Johnson Memorial Hospital, health providers, as well as, retail and dining options, while still having a more secluded feel, tucked behind the American Health Network and fronting Commons Way.

**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's designation of this area as a Neighborhood Activity Center. The Comprehensive Plan Land Use intend for this area to be a gathering place and neighborhood scale activity center for Franklin, where services are provided, including multi-family residences on upper levels; independent living units on multiple levels are not substantially inconsistent with those stated goals.

**STAFF RECOMMENDATION – USE VARIANCE**

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

- a. Use variance approval for a retirement facility use is limited to, and runs with Wallick Asset Management, LLC, at the subject property.
- b. Use variance approval for a retirement facility use is limited to 64 dwelling units.
- c. A minimum of two (2.0) off-street parking spaces are required to be provided for each dwelling unit on-site.
- d. A minimum of four (4) parking spaces are required to be provided for employees working on-site.
- e. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- f. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

## **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 variances will not be injurious to the public health, safety, morals, and general welfare of the community. Approval of the building height variance will allow a more traditional residential roof pitch and aesthetic for the proposed development, which will benefit the residential uses in the general vicinity. Moreover, the project would only be three stories and all windows would be below 30 feet in height, which is less than the maximum height allowed by right in the MXN district.

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 will not be affected in a substantially adverse manner, as the variance requested reduces the potential commercial/institutional aesthetic and impact on the property, by allowing a more traditional residential-style building and sloped roof.

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 will result in practical difficulties in the use of the property, as petitioner has proposed a facility with the truss bearing around 31 feet in height, which is at least four feet below the maximum building height allowed for the MXN district. Additionally, petitioner is proposing a building design and roof pitch (6:12 & 10:12) with a residential aesthetic; whereas the truss bearing is below the maximum height permitted, the only portions of the building that will exceed the height limitation are uninhabitable areas of the sloped roof.

### **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE**

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

- a. Maximum height of the structure: 50 feet.
- b. No portion of the building is permitted to exceed 35 feet in height, except uninhabitable areas of the sloped roof, with a pitch equal to or steeper than 6:12 pitch.