



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: November 24, 2021

Re: Cases ZB 2021-18 (V) | Founder's Pointe Apartments

REQUESTS:

Case ZB 2021-18 (V)...Founder's Pointe Apartments. A petition by Franklin Flats Apartments Partners, LLC, for a request for a Developmental Standards Variances from the City of Franklin Zoning Ordinance, Article 7, Chapter 17, Buffering & Screening Standards, to remove all Type 3 Buffer Yard requirements along Upper Shelbyville Rd, except for the shrub planting requirement, in the RM: Residential Multi-family zoning district. The property is located on the south side of Upper Shelbyville Road, approximately 300 feet east of the intersection with Hurricane Road.

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: IBD: Industrial Business Development
IG: Industrial, General

South: RSN: Residential Suburban Neighborhood

East: IN: Institutional

RSN: Residential Suburban Neighborhood

West: RSN: Residential, Suburban Neighborhood

Surrounding Land Use:

North: Agricultural crop field

South: Single-family Residential (Heritage Trails)

East: Needham Elementary

Single-family Residential (Heritage Trails)

West: Single-family Residential (Glendale Sub.)

CONSIDERATIONS:

1. Petitioner is proposing to develop a multi-family development, with three-story buildings, on the subject property. Petitioner proposes 6 multi-family buildings, ranging from twenty-four (24) to thirty-six (36) units in each building, and with a total of 180 dwelling units. Units would include balconies or patios. [See [Exhibit A: Site Plan](#) and [Exhibit B: Landscape Plan](#)]
2. The property will utilize private streets, throughout, and all units will have vehicular access via the private streets, with at least two parking spaces for each dwelling unit.
3. The subject property is located within the Special Flood Hazard Area "SFHA" zone AE 1% annual chance "100-Year" regulated Flood Zone & Floodway, and in Zone X 0.2% annual chance "500-Year" Flood Hazard Area. [See [Exhibit C: INFIP Report](#)]
4. The presence of the regulated SFHA on the property limits potential buildable areas on-site.

Lot Standards – Front Yard Setback

5. According to Article 3, Chapter 14, Residential Multi-Family Lot Standards, the minimum front yard setback for primary structures adjacent to a Collector Street (Upper Shelbyville Road) is 30 feet.
6. Petitioner is proposing for all buildings to meet the required front setback, with the building immediately adjacent to Upper Shelbyville Road shown with a setback of 34 feet.

Buffering & Screening Standards

7. According to Article 7, Chapter 17, Buffering & Screening Standards, a Buffer Yard Type 3 is required to be provided when a RM: Residential Multi-Family zoned property is developed and it abuts an IBD: Industrial Business Development, or IG: Industrial General zoned property.
8. The subject property is zoned RM: Residential Multi-Family and the north boundary line abuts properties zoned IBD: Industrial Business Development & IG: Industrial General; therefore, a Buffer Yard Type 3 is required along the entire length of the north property line.
9. According to Article 7, Chapter 17, a Buffer Yard Type 3: “shall include a minimum setback of 25 feet in addition to the yard setback otherwise required by this Ordinance. In addition, a row of broad-leaf deciduous canopy trees shall be planted parallel to the property line within the buffer yard with 1 tree placed every 20 feet along the boundary between the subject and adjoining properties. Also, a 6 foot tall opaque wooden fence or brick / stone wall, a 5 foot tall undulating mound planted with shrubs, or a row of evergreen conifers shall be provided.”
 - a. If an undulating mound is used the slope shall be a maximum of 3:1 (rise:run), one shrub for every 10 feet of continuous boundary shall be planted on the mound. All required shrubs shall be 18 inches tall, measured from grade, at planting.
 - b. If a row of evergreen trees is used, one tree shall be placed every 10 feet along the property boundary. All evergreen trees shall be 5 feet in height measured from the top of the rootball, at the time of planting.
10. Variance Request: *Petitioner is requesting a variance to remove ALL Type 3 Buffer Yard requirements along Upper Shelbyville Road, except for the shrub plantings.*
11. Variance Request (cont.): *Petitioner requests the following requirements be REMOVED:*
 - a. 25 foot Buffer Yard setback;
 - b. Row of broad-leaf deciduous canopy trees (1 tree placed every 20 feet along boundary);
 - i. 1,034 LF of street frontage = 52 broad-leaf deciduous trees required
 - c. 6 foot tall opaque wooden fence or brick / stone wall, OR a 5 foot tall undulating mound planted with shrubs, OR a row of evergreen conifers (1 tree every 10 feet) shall be planted.
 - i. 1,034 LF of street frontage = 103 evergreen conifers
12. Variance Request (cont.): *Petitioner requests the following be ACCEPTED:*
 - a. One shrub (min. 18” height) planted for every 10 feet of continuous boundary = 103 shrubs.
13. Petitioner proposes a total of 71 trees & 103 shrubs of varying species and varieties between the north row of Apartment buildings and Upper Shelbyville Road.
 - a. 46 Site Interior Trees between buildings and public sidewalk;
 - b. 25 Street Trees between public sidewalk and Upper Shelbyville Road; and
 - c. 103 Shrubs will be required between buildings and public sidewalk.
14. The 46 Site Interior Tree listed above include the following species: White Pine, Eastern Redbud, Prairifire Crabapple, Tulip Poplar, Eastern Red Cedar, and Shumard Oak.
15. The 25 Street Trees listed above include the following species: Shumard Oak, Silver Linden, and Red Maple.

Comprehensive Plan

16. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Multi-family Residential. "Multi-family residential areas are those which are dominated by multi-unit residential complexes and structures. These multi-dwelling unit structures may include apartment complexes, condominiums, patio homes, duplexes, single-family attached homes, and other forms of multi-family residences. This may include both owner-occupied and renter-occupied facilities. Some multi-family residential areas may include community centers, day care centers, laundry facilities, convenience stores, and other uses focused on providing goods and services to residents of an individual development. Other uses that may be appropriate in multi-family areas include assisted living facilities, nursing homes, and group homes. Some single family residences may also be incorporated into these areas. Multifamily residential areas are intended to provide high-density residential options located in close proximity to appropriate goods and services, transportation routes, and parks and open spaces."

Zoning Ordinance

17. 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.
18. 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 variance will not be injurious to the public health, safety, and general welfare of the community, as petitioners have chosen to reduce this area of landscaping, in order to keep the proposed apartment structures out of and farther from the Regulated Special Flood Hazard Area. Moreover, a Type-3 Buffer Yard will be required along the north side of Upper Shelbyville Road whenever the industrial-zoned property across the street is developed; therefore, the reduction in Buffer Yard Standards on this property will not be injurious to the general welfare.

- 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 variance will not substantially affect the use and value of the adjacent properties, as petitioners will still be providing 103 shrubs, along with 71 Site Interior or Street Trees between the buildings and Upper Shelbyville Road. Additionally, the adjacent property requiring the Type-3 Buffer

Yard is Industrial zoning; approval of the yard and landscaping reduction by & for a multi-family use will not negatively affect any future industrial user.

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, as the entire southern portion of the subject property is located within the Regulated Special Flood Hazard Area Zone AE, or “100-Year” 1% annual change Flood Hazard Area & Floodway. The presence of the SFHA forces development of the property toward the north. The additional required 25 foot Buffer Yard setback distance would push the structures closer-to, or within the Special Flood Hazard area. Moreover, without the additional buffer yard setback distance, providing the required landscaping, mounding, and/or fencing becomes difficult; however, petitioner is proposing to still provide the 103 shrubs.

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. One hundred three shrubs shall be planted on-site, between the north façades of the north apartment buildings and the right-of-way line of Upper Shelbyville Road, after the right-of-way dedication.