

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

October 6, 2021

Members Present

Jim Martin
Phil Barrow
Charlotte Sullivan
Brian Alsip

Chairman
Vice Chairman
Secretary
Member

Members Absent

Ashley Zarse

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

Charlotte Sullivan made a motion to approve the minutes of July 7, 2021 and September 1, 2021. Phil Barrow seconded. The motion passed unanimously, 4-0.

Swearing In

Ms. Gray swore en masse anyone planning to speak.

Old Business

None.

New Business

ZB 2021-16 (SE) – Newkirk Square Townhomes – Alex Getchell introduced the special exception request. The property is located at the northwest corner of South Water Street and East Wayne Street. The property is zoned MXD (Mixed Use: Downtown Center) and the Comprehensive Plan is split on the property, showing downtown and core residential uses. The request is to allow a multi-family residential use, in this case 10 units of attached townhomes. The zoning ordinance does not specifically list townhomes as a use in the land use table, so staff had to make an interpretation of the land uses and what would apply in this case. Staff made the determination that it was most similar in use to a multi-family residential use. There are a couple of phases of development on the Wayne Street properties. This request is for townhomes only and not for the multi-use building of a later phase. The townhomes will be in an L-shape along Water and Wayne, four units facing Wayne Street and four units facing Water

Street. Two additional units will be in the northwest corner of the property. All units will have a two-car garage on the ground level. All units will access from alleys with the exception of one accessing off Water Street. Each building will have a masonry or brick façade on the front and sides. The back will be a fiber cement siding with the garage doors and balconies as well.

Petitioner Charlie Mattox from Crossroad Engineers addressed the decision criteria.

1. General Welfare – The proposed product is a slightly higher density than a typical single-family residential would be with more units which bodes well for the downtown zoning district in general. Each unit has a small setback from the property line and the porches and stairs access directly to the public sidewalk similar to most buildings in the downtown area. The parking is in the two-car garages. The exteriors are a pleasing, aesthetic product and will only add to the downtown aesthetics.
2. Development Standards – Petitioner has made revisions per staff's recommendations and resubmitted. They are awaiting response from staff and plan to cooperate with all staff recommendations.
3. Ordinance Intent – Each unit will function as a single-family home and will be individually owned as set forth in condominium law. This product will fit better in to the downtown zoning district, more so than a single-family home.
4. Comprehensive Plan – This site is more specifically called out as a downtown area as well as a residential area. Both goals are met with this use.

A public hearing was held. Remonstrator Anita Sickels Ward, a resident of South Water Street, did not choose to speak for or against the project. She doesn't want to lose her grassy area and have diagonal parking from The Garment Factory outside her bedroom window. Ms. Gray reminded the specific focus for tonight's meeting is the special exception only. Sharon Kline, a resident of Wayne Street, was concerned about the parking for additional family members and visitors of the residents without increasing common parking spaces. Ms. Gray explained they will be required to adhere to the ordinance which is two spaces per residential unit. Rob Shilts of Franklin Heritage thanked the Beamises for being allowed to move one home and salvage from a couple others. FHI supports new construction when designed to fit in with the existing neighborhoods. He continued to champion on behalf of historical neighborhoods and keeping their historical architecture in tact. He expressed that there are a finite number of historical properties in Franklin and they should be valued. The public hearing was closed.

Principal and owner Billy Bemis responded. Every owner of the vacated homes was a willing seller. Their plan is for owner occupied dwellings with a value beginning at \$520,000. Their market study showed a desire for their planned features in a Franklin type neighborhood without a desire for historic homes. Police and fire were able to conduct months of training in vacated homes. Extensive salvage of anything valuable was conducted. There is only one current public parking space being taken for this project with the addition of three guest parking spaces on the interior. Without retail on the ground floor, they are before the board tonight for the special exception to allow residential only.

Mr. Getchell presented staff's recommendation for approval with four conditions.

1. Special Exception approval is limited to ten (10) attached townhome units.
2. Each townhome unit must include an attached two-car garage.
3. The front and side façades of the structures shall be masonry/brick construction, with a minimum of three (3) variations in brick style/color. The rear façade shall be either a fiber cement material, or masonry/brick.

4. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

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

ZB 2021-17 (V) – 120 Jim Black Rd. – Mr. Getchell introduce the developmental standards variance request. The property is zoned IL (Industrial: Light) and the Comprehensive Plan calls for the area to be light industrial land uses. The details are to allow fencing in the required front yard setbacks in the IL (Industrial: Light) zoning districts. In the industrial districts fencing is allowed between the building and the street but is not allowed in a required front yard setback. Only approximately 500 feet of the total fencing to be installed will be in the required front yard setback. It will be along what would be considered the front yard along the northbound I-65 onramp. The fencing will enclose three sides of the building and all of the interior truck drives and truck storage areas onsite. The petitioner is proposing the fencing to be eight feet in height and to be a black vinyl coated chain link fence. The property was built by the Sunbeam Development Corporation as a spec building. They have a tenant considering development of the site and they have been going through the site development process to make some changes to the site of which this is a part. The focus of tonight's variance request is the southwest corner of the site. They are adding 15-16 acres to the north.

Civil Engineer Hugh Thomas with BL Companies addressed the decision criteria.

1. General Welfare – It is a relatively inconspicuous portion of the property.
2. Adjacent Property –
3. Practical Difficulty – The existing driveway encroaches in to the 50-foot setback. The petitioner does not wish to push the pavement any further out. It is very close to the building as it is to safely maneuver. They would like to install the fence approximately 10 feet off the curb line.

Petitioner accepts staff's conditions as set forth in the staff report.

A public hearing was held. With no respondents, the hearing was closed.

Mr. Getchell presented staff's recommendation for approval with three conditions.

- a. The fence must be constructed as shown on the site plan with Issue Date: September 8, 2021 and received by Planning Staff on September 9, 2021
- b. The construction of the fence shall be black vinyl coated chain link fence eight-feet in height.
- c. Chain link slats, razor-wire, and barbed-wire are prohibited from use.

Mr. Barrow made a motion for approval with staff's three conditions. Ms. Sullivan seconded. Passed unanimously, 4-0.

CONTINUED TO DECEMBER 1, 2021 MEETING

ZB 2021-18 (V) – Founders Pointe Apartments – Mr. Getchell explained the continuance of this case to be for the reason of significant changes being made by the petitioner after technical review, resubmittal, submission to the BZA and sending out public notice. Staff administratively continued this case to the December meeting to allow for review.

ZB 2021-19 (V) – Hubler Ford – Mr. Getchell introduced the case regarding the property at 2140 North Morton Street. The property is zoned MXC (Mixed Use: Community Center) and is located in the

Gateway Overlay district. The Comprehensive Plan calls for the area to be a community activities center. There are seven developmental standards variance requests. Six are related to the gateway overlay standards.

Variance Requests as outline by Mr. Getchell:

- 1.) Exterior Materials, to allow architectural metal panels (other than accents & trim) and corrugated metal panels. They are permitted but only as accents and trim on buildings. They are requesting to use it on a larger area.
- 2.) Exterior Colors, to allow metallic colors. It is more than just accents and trim, rather a significant portion of the building.
- 3.) Roof Design, to allow variances to the parapet design on three sides of the building.
- 4.) Pedestrian Walkway, to be allowed to not provide a pedestrian walkway from the public sidewalk to the main customer entrance. This walkway would be from the sidewalk along the road frontage connecting to the entrance.
- 5.) Façade Walkway Landscaping, to be allowed to not provide 5' of landscaping separation between walkway and façade of building. Any side of the building that has a customer entrance is required to have a sidewalk along that façade and between the sidewalk and the building it is required to have five feet of landscaping separation. They are providing it for a good portion of the front façade, but there is a section where they are requesting only a two-foot landscaping area.
- 6.) Outdoor Merchandise Storage, to allow outdoor storage of merchandise (vehicles). In the gateway overlay district, merchandise is allowed to be stored outside but has to be immediately adjacent to the buildings. This is a variance seen commonly before the board meeting with approval over the years. Staff is aware this is one to be looked at for amendment in the zoning ordinance.
- 7.) A variance from Article 7, Chapter 10, Part 3, Parking Standards, to allow merchandise vehicles to be parked/stored without individually delineated parking spaces. The ordinance requires every vehicle parking space to be striped at least nine feet by 18 feet in size. They are requesting general merchandise vehicle areas be striped on either side indicating where the vehicles are so they can align them as desired within the areas and still provide the required interior drives.

The current building is positioned close to the road. The new building to be constructed would be toward the rear of the site with additional merchandise parking out front. Mr. Getchell pointed out the variance requests on PowerPoint maps presented in the meeting. Ms. Gray pointed out that variance requests one through six are gateway overlay variances and request number seven is an ordinance variance. Mr. Getchell clarified that numbers six and seven are related to each other, especially for auto dealerships.

Director John Haines with BDH Realty and Hubler Automotive Group presented. The site plans are based on Ford Motor Company's national dealership prototype. It was the belief of Mr. Haines that the gateway overlay district does not account for auto dealerships in various ways though they are an allowable use in the area. He maintained the design would have no negative impact on the general welfare or adjacent properties but rather is of benefit and increases adjacent property values. The overall practical difficulty is that they are mandated by the Ford Motor Company and only allowed small deviations due to lot or specific uses. No other designs or materials are approved for use. Mr. Haines highlighted that architectural metal was a previously approved material but had recently changed. Mr. Getchell explained the reason for the change was that the intent was not well written. It was intended as an approved use only for trim and accents.

He addressed the three decision criteria for each of the seven variances requested.

1. Exterior Materials: ACM has no effect on general welfare and adjacent properties. The appearance would blend well with adjacent properties. ACM is not a thin, easily damaged or short life material. The practical difficulty is that there is no alternative material open to them from Ford Motor Company.
2. Color: ACM and brushed aluminum has no effect on the general welfare, safety or adjacent properties in any way. Brushed aluminum and their neutral color palette will blend in with any adjacent structures similar to the Walmart across the street and other buildings in the area. The practical difficulty is that without the ACM, Ford's approval will not be received and there is no other color of the materials available to them. A new dealership will benefit the community and increase adjacent property values.
3. Roof Design: Their design is sleeker and more modern so the architectural feature at the very top of the building is not incorporated. It has no effect on the general welfare and adjacent properties. The look will blend with adjacent buildings. The practical difficulty is that there is no alternate design available to them per Ford. Community benefit and increased adjacent property values.
4. Pedestrian Walkway: No effect on general welfare or adjacent properties. It could be dangerous to have a long pedestrian walkway go through the middle of a vehicle display area crossing five drive lanes and dead-ending into a right of way with a steep banked ditch. They would lose vehicle display spaces. The practical difficulty is creating a liability for them and INDOT. And to get to the walkway would require walking along a thin strip of grass along US31.
5. Façade Walkway: There is only 17.94 feet left between the east façade and the first drive lane. If they do five feet of landscaping and five feet of sidewalk, there would not be enough room for property vehicle display along the front. They requested only two feet of landscaping against vehicle display. They also proposed two feet of landscaping along the wing wall going past the true façade of the building. Landscaping would also run along the entire front.
6. Outdoor Merchandise Storage: The site plan has no effect on the general welfare and adjacent properties. The practical difficulty is that if every parking space is striped, it will create confusion between customer parking and retail display parking. It could be unsafe for a customer to park in a striped open space in the middle of the lot.
7. Parking Standards: Petitioner sees no negative effect on general welfare or adjacent properties. The practical difficulty is that without the variance every parking space would be striped and create confusion for the customers with employee parking and where the retail display area is. There would be no flexibility to arrange vehicles. Angled cars for display purposes look bad positioned over striped spaces.

A public hearing was held. With no respondents, the hearing was closed. Mr. Barrow asked where employee parking was located. Mr. Haines responded by having Mr. Getchell show it on the PowerPoint presentation. Mr. Alsip asked Mr. Haines to clarify that he identified the walkway would end in a ditch and the city as saying it will end at the walking trail in a few years. Ms. Gray stated it will undoubtedly be a walking trail in that area. Mr. Alsip refuted what Mr. Haines described as the walkway ending in a ditch to be incorrect based on the city and city attorney's statements that it will end at a walking trail. Mr. Haines clarified that if INDOT does not do the US-31 project, Hubler will put in the sidewalk at 100% Hubler's expense. But they have five years to accomplish that, and Mr. Haines was making reference to currently it is a walkway to a dangerous ditch. Mr. Alsip additionally asked if there was really no way to make concessions for three more feet of landscaping. Mr. Haines responded that it leaves no option for vehicle placement other than parallel positioning. Mr. Alsip maintained that Hubler could find three more feet. Ms. Gray clarified that although other requests were Ford mandated, this request is not as it

is a city requirement. Mr. Haines confirmed. Ms. Sullivan observed that they have two entrances onto US-31 and no entrance to the south. She offered her belief that the lack of a pedestrian entrance is a loss and that it is needed. There was discussion between Mr. Haines and Mr. Getchell as to what would be required for this. Ms. Gray added that connectivity is a common request and it is often seen as less safe without that connectivity as people are going to walk there anyway. Mr. Haines reiterated their genuine concern for pedestrian safety until such a time as the project is complete and Mr. Getchell represented staff's understanding of the petitioner's stance on that.

Mr. Getchell gave staff's recommendation.

Staff Decision Criteria Summary by Variance:

- 1. & 2. (Exterior Materials & Exterior Colors): Staff finds listed variances 1. & 2. may be injurious to the general welfare.
- 3. (Roof Design): Staff finds listed variance 3. has met all decision criteria.
- 4. (Pedestrian Walkway): Staff finds listed variance 4. will be injurious to the public health and general welfare, and no relevant practical difficulty has been demonstrated (based on reduction of, or restriction on, economic gain).
- 5. (Façade walkway landscaping): Staff finds listed variance 5. has not provided evidence of a relevant practical difficulty (based on reduction of, or restriction on, economic gain).
- 6. & 7. (Outdoor Merchandise Storage & Merchandise vehicle parking spaces): Staff finds listed variances 6. & 7. have met all decision criteria.

Based on the written findings as listed in the staff report, if the Board finds evidence to approve **variances 1., 2. & 3.**, staff recommends the following conditions of approval:

- a. Approval of the Exterior Materials and Exterior Colors variances shall be limited to the materials, colors, and square footages/percentages listed on the "Exterior Material Schedule" provided on Sheet "A-2", Exterior Elevations, and received by Planning Staff on September 15, 2021.

Based on the written findings above, staff recommends **DENIAL** of variances 4 & 5. Staff finds variance 4 would be injurious to the public safety and also finds the listed practical difficulty as self-imposed or based on economic restriction or gain. Staff does not find issue on general welfare for variance 5 but doesn't find any practical difficulty.

Based on the written findings above, staff recommends **CONDITIONAL APPROVAL** of variances 6. & 7. with the following conditions:

- b. The merchandise vehicle storage areas, without individually painted parking spaces, shall have a solid white line, marked with appropriate pavement markings, for the entire boundary of the storage areas.
- c. All merchandise vehicles must be stored completely within the marked boundaries of the merchandise vehicle storage areas. Merchandise vehicles parked over the boundary line or within any of the required employee or customer parking spaces or interior drives shall be strictly prohibited.
- d. Merchandise vehicle parking within the public right-of-way shall be strictly prohibited.
- e. Vehicle parking, of any kind, in the grass or on an unpaved surface shall be strictly prohibited.
- f. Required parking spaces for employees and customers shall be provided as individually delineated parking spaces and shall be marked with appropriate pavement markings, as indicated on the approved site plan, and in accordance with the zoning ordinance standards.

Mr. Alsip asked for item a. to state “substantially similar to and as approved by staff” so petitioner would not be required to reappear for any small deviation from what was approved on September 15, 2021. Mr. Alsip made a motion to approve variances 1, 2 and 3 with staff’s condition, adding “substantially similar to and as approved by staff.” Mr. Barrow seconded. Passed unanimously 4-0.

Mr. Alsip made a motion for denial of variance 4 because of lack of practical difficulty. Ms. Sullivan seconded. Passed unanimously, 4-0.

Mr. Alsip made a motion for denial of variance 5 because of lack of practical difficulty. Ms. Sullivan seconded. Passed unanimously, 4-0.

Mr. Alsip made a motion for approval for variances 6 and 7 with staff conditions b-f. Ms. Sullivan seconded. Passed unanimously 4-0.

Other Business

None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 1st day of December, 2021.

Jim Martin, Chairman

Charlotte Sullivan, Secretary