

## **MINUTES**

### **City of Franklin, Indiana BOARD OF ZONING APPEALS**

**May 4, 2022**

#### **Members Present**

Jim Martin  
Phil Barrow  
Charlotte Sullivan  
Ashley Zarse

Chairman  
Vice Chairman  
Secretary  
Member

#### **Others Present**

Joanna Tennell  
Lynn Gray

Senior Planner II  
Legal Counsel

#### **Not Present**

Brian Alsip

Member

#### **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 March 2, 2022 minutes. Ashley Zarse seconded. The motion passed unanimously, 4-0.

#### **Swearing In**

Lynn Gray swore en masse anyone planning to speak.

#### **Old Business**

None.

#### **New Business**

**ZB 22-3 (SE/V) – JART Properties, LLC** – Joanna Tennell introduced the special exception request to allow a multi-family dwelling use as the primary use in the MXR (Mixed-Use: Regional Center). The property is located north of Longest Drive, east of Fairway Lakes Drive and immediately west of the McDonald's on the east side of Franklin. JART is also requesting development standards variances. The initial application included three requests, but one request in regards to the maximum building height has officially been requested to be removed from consideration. One variance request is to allow the construction of garages and carports as accessory structures. The MXR (Mixed-Use: Regional Center) zoning district does not list carports or garages as permitted accessory structures. The second variance request is from the Gateway Overlay requirements that the main entrance of the primary use face the

public right-of-way with the highest thoroughfare planned road classification. The submission is a concept plan only. It has not gone through Technical Review Committee. If JART is granted approval this evening, TRC would be the next step.

CrossRoad Engineers President Trent Newport, presented with a PowerPoint presentation. On the west side of the building would be some courtyards with amenities. There is an existing tree buffer they plan to improve upon by additional tree plantings. They would also improve a north side buffer. Their plan is for a higher end market rate apartment complex catering to young professionals. Interior entry common area and corridors with interior entrances, balconies and elevator will be featured. There will be 163 units with 50 being two-bedroom. The remainder will be one-bedrooms and studios and studios with dens.

Mr. Newport reviewed the decision criteria:

1. General Welfare – He stated, they believe it will have no negative effect. There are existing buffers they plan to enhance, and it is also a softer use than commercial uses that would be permitted without variances.
2. Development Standards – He stated all will be met.
3. Ordinance Intent – He stated they do not believe it to be contrary to the ordinance intent. The development will provide customers to the retail and restaurant establishments in the area.
4. Comprehensive Plan – He stated it is consistent with the character.

Mr. Newport stated, that since owning the property in 2018, JART has tried to develop the property commercially. They have had eight different Letters of Interest step away after their original intent for the property. The two reasons have been lack of rooftops and awkward accessibility, which is not a concern for a multi-family complex. And within this zoning, it is not a prohibited use but only a special exception use.

Mr. Newport went on to address the decision criteria for the development standards variance for the garages and carports:

1. General Welfare – He stated garages and carports are allowed within a multi-family development. JART believes it to elevate the property.
2. Adjacent Property – He stated there are both required and extra buffer yards to the west and north of the property that will shield. To the east is a vacant lot and the McDonald's which the garages will help block from view.
3. Practical Difficulty – Mr. Newport read from the staff report, supporting the verbiage and highlighting again his explanation of the General Welfare criteria.

Mr. Newport continued to address the decision criteria for the development standards variance to allow the main entrance of the primary use to not face the public right-of-way of the highest Thoroughfare Plan road classification:

1. General Welfare – He stated they don't find the orientation of the entrance to have any bearing on the general welfare.
2. Adjacent Property – He stated they plan to follow all architectural standards and likely above them. Again, the orientation they believe to have no effect on use or value of adjacent properties.
3. Practical Difficulty – He stated the width of the lot facing King Street is not sufficient for the main entrance elevation.

Ms. Gray asked if Mr. Newport was able to identify the types of companies that have approached them for LOI's that are permitted. They have included Wendy's, Dairy Queen, Taco Bell, Starbucks, Buffalo Rings and Things, Dunkin' Donuts and Arby's. Caliber Collision Repair was an eighth who asked for an extension on their LOI, and JART did not extend it due to the city communicating it to not be the product desired for this area. Mrs. Tennell added that they are not a permitted use. They are medium scale which is not permitted. Large scale is permitted.

Mr. Martin opened a public hearing.

Mike Jarvis represented The Links at Franklin. He expressed the need for more support on the east end of town for upscale restaurants and small scale grocery.

Krista Sherman is a resident of Fairway Lakes and expressed her desire for the property to remain as it is currently zoned for retail, restaurant and hotels. She doesn't believe this to be the location for multi-family housing. She felt it would be a problem to put such a high density structure on Longest Drive which is not designed for such traffic. Ms. Gray replied that rezoning is not being considered as BZA does not have the authority to rezone. This meeting is about variances only. City Council is the only board with authority to rezone.

Bruce Williams identified the traffic levels on Longest Drive. He expressed concern that the proposed development does not include an entrance off Longest Drive. He also desires more service-oriented business at this location.

John Williams voiced concern over the height of the proposed building, enabling residents on their balconies to look down in to his daughters' bedroom. He also described the landscape buffers deteriorating and not being maintained. He believes apartments will decrease their home values.

Laurie King believes the property should remain as originally intended. She preferred service industries at the location.

Denita Pickett identified promises made in the past that have not been kept. She expressed concern over current hotel guests littering and participating in undesirable activities outside their hotel rooms.

An unidentified remonstrator spoke to the issue of carports. Since they have no backing, he believed car headlights as residents come and go all night will shine directly in to their homes.

Don Zuch addressed need vs. desire. His assessment of need on the east end was restaurants and retail space. New rooftops are going in across the street. The original zoning of commercial was for a reason, and the reason still stands.

Kyle Kasting spoke to the major issue of traffic on Longest Drive. Rush hour traffic will be cutting through the McDonald's parking lot and get backed up on Longest Drive. He also asked why there would not be garages over carports on Fairway Lakes Drive as well.

Mr. Newport reiterated this to not be a zoning issue. The zoning allows multi-family by special exception. They have tried to be patient through eight LOI's that have backed out. They have worked with Street Commissioner Brett Jones on tree replacement. They maintain their commitment to the

buffers they will put in over and above requirements. Their property will be cleaner than a restaurant. They would prefer to look at apartments than a restaurant.

Mr. Martin closed the public hearing. Board members had no questions. Mrs. Tennell gave staff's recommendation for the special exception.

If the Board finds evidence to approve the Special Exception use, staff recommended the following conditions be attached to the approval:

1. Special Exception approval for a multi-family residential use is limited to, and runs with JART Properties, LLC, at the subject property.
2. The total number of dwelling units shall not exceed the maximum number allowed based on the minimum parking requirements as required by the zoning ordinance.
3. A minimum of two (2) off-street parking spaces are required to be provided per dwelling unit.
4. A minimum of one-half (0.5) off-street parking space is required to be provided for each garage parking space provided on-site, rounded up.
5. A minimum of one (1.0) off-street parking space is required per 250 sq. ft. of management/sales office space.
6. A minimum of one (1.0) off-street parking space is required for each employee on-site during the largest shift, and for each business vehicle stored on-site.
7. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
8. Locations of carports to be about the western and northern parking areas, while the garages will be about the eastern parking area. Actual design to be in substantial compliance with the included exhibit dated "April 18, 2022 rev."
9. If carports are utilized, at no point in time shall the carports be enclosed with any walls.
10. The petitioner will provide a shrub hedge, mounding, or conifers that will screen the carports along the western and northern sides.
11. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

The addition of condition #10 at the meeting was acceptable to the petitioner.

Phil Barrow asked for examples of the types of businesses that could locate on this property without any variances. Mrs. Tennell enumerated a number of possibilities including but not limited to farm equipment sales and service, farmers market, wineries, nature preserve, playgrounds, daycare, funeral home, library, community center, government offices, hospital or medical center, private clubs, parking lot or garage, gas stations, police and fire stations, night club, bar, arcade, microbrew, mini golf, skating rink, swimming pool, all retail uses, restaurant, etc.

Mr. Barrow made a motion for approval of the special exception with 11 conditions. Mrs. Zarse seconded. Motion passed unanimously by roll call vote, 4-0.

Mrs. Tennell gave staff's recommendation for the development standards variance.

If the Board finds evidence to approve the two Development Standards Variances, the first to allow carports and garages as accessory structures and a second variance from the orientation of the main entrance in the Gateway Overlay, staff recommended the following conditions be attached to the approval:

- a. Maximum of four (4) detached garage structures and a maximum of twenty-eight (28) garage parking spaces.
- b. Maximum of seven (7) carport structures.
- c. Locations of carports to be about the western and northern parking areas, while the garages will be about the eastern parking area. Actual design to be in substantial compliance with the included exhibit dated "April 18, 2022 rev."
- d. The petitioner will provide a shrub hedge, mounding, or conifers that will screen the carports along the western and northern sides.
- e. At no point in time shall the carports be enclosed with any walls.
- f. All applicable parking requirements must be met, including number of spaces for dwelling units, garage units, management/sales office space(s), parking spaces for employees on largest shift, and parking spaces for all business vehicles stored on-site, as outlined by the Zoning Ordinance, Article 7, Chapter 10.
- g. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

The development standards variance for the height requirement has been withdrawn. The petitioner agreed to the recommended conditions for the two remaining variance requests.

Ms. Sullivan made a motion for approval of the two variances with staff's seven conditions. Mr. Barrow seconded. Passed unanimously by roll call vote, 4-0.

#### **Other Business**

#### **Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 1st day of June, 2022.

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Jim Martin, Chairman

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Charlotte Sullivan, Secretary