



## 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:** September 30, 2022  
**Re:** Case ZB-22-8 (SE & V) Regina Miller

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### REQUEST:

**Case ZB-22-8 (SE & V)...929 E. Davis Drive.** A request by Regina Miller for a Special Exception Use from the City of Franklin Zoning Ordinance, Article 7, Chapter 3 to allow an accessory dwelling use in the RSN, Residential, Suburban Neighborhood zoning district, and a Developmental Standards Variances from the City of Franklin Zoning Ordinance, Article 7, Chapter 3, to allow the accessory dwelling to be located on the ground floor of an accessory building. The property is located in the City of Franklin's Extraterritorial "Buffer Zone" Jurisdiction area, at the property with a common address of 929 E. Davis Drive.

### PURPOSE OF STANDARD:

The "RSN", Residential: Suburban Neighborhood zoning district is intended to ensure the continued viability of suburban-style lots in existence on the effective date of this Ordinance. This district should only be used to maintain established setbacks and standards in suburban neighborhoods.

### ZONING:

#### Surrounding Zoning:

North: RSN: Residential, Suburban Neighborhood  
South: IN: Institutional  
East: RSN: Residential, Suburban Neighborhood  
West: RSN: Residential, Suburban Neighborhood

#### Surrounding Land Use:

North: Single-family Residential  
South: Creekside Elementary & Bus garage/storage  
East: Single-family Residential  
West: Single-family Residential

### CONSIDERATIONS:

1. The subject property of 929 E. Davis Drive has an existing single-family residential home, with detached pole barn structure in the rear.
2. Petitioner, Regina Miller, is proposing a second dwelling with a single-car garage to be located south of the existing residence. The dwelling would have 972 square feet of living area, with one bedroom, one full bathroom, and an open kitchen/family room area. Petitioner has stated the additional dwelling is planned for a disabled relative. [See [Exhibit A: Site Plan](#) & [Exhibit B: Building Plans](#)]

#### Special Exception – Accessory Dwelling

3. Accessory dwelling units are listed as a special exception in the following zoning districts: RSN (Residential: Suburban Neighborhood), RS-1 (Residential: Suburban One), RS-2 (Residential: Suburban Two), RS-3 (Residential: Suburban Three), and RTN (Residential: Traditional Neighborhood).
4. Accessory dwelling units are a permitted use in the following zoning districts: RR (Residential: Rural), RT-1 (Residential: Traditional One), RT-2 (Residential: Traditional Two), and RT-3 (Residential: Traditional Three).

5. Article 13.2 defines Dwelling, Accessory as “A separate and complete secondary dwelling unit established in conjunction with and clearly subordinate to another dwelling that which serves as the primary use and/or structure on the property.”
6. Article 7.3 of the Zoning Ordinance limits accessory dwellings to 1,000 square feet and under.
7. The proposed accessory dwelling would have 972 sq. ft. of living area, and 1,356 total square footage.
8. Special Exception: *Petitioner is proposing a dwelling less than 1000 sq. ft. of living area and in a detached structure; therefore, petitioner requests a Special Exception use approval, from the Accessory Use Standards, to allow an accessory dwelling use.*

#### **Developmental Standards Variance**

9. Article 7.3 of the Zoning Ordinance requires accessory dwellings to be (a) attached to, and designed and constructed as part of the primary structure, or (b) located above a detached garage or workshop.
10. Variance: *Petitioner is proposing the accessory dwelling be located on the ground floor of a detached accessory structure; therefore, petitioner requests approval of a development standards variance to allow the accessory dwelling to be located on the ground floor of a detached accessory structure.*

#### **Extraterritorial Jurisdiction – “Buffer Zone”**

11. The property is located in the City of Franklin’s Extraterritorial “Buffer Zone” Jurisdiction area, and is therefore, subject to the authority of the City of Franklin Zoning Ordinance.
12. For the sole purpose of review and comparison, the information provided in considerations 13 through 15 are references to what *would be* permissible if this property, which is located in Unincorporated Johnson County, WAS NOT located within the “Buffer Zone” and a City of Franklin zoning district.
13. Accessory Dwelling Unit as defined by the Johnson County Zoning Ordinance: “A secondary single-family dwelling unit with independent means of ingress and egress, attached to or detached from an associated primary single-family dwelling on the same parcel, that provides independent living facilities including provisions for sleeping, eating, cooking and sanitation. An accessory dwelling unit must be a structure built on a permanent foundation, and may not be a mobile home or a recreational vehicle.”
14. According to the Johnson County Zoning Ordinance, Accessory Dwelling Units are permitted by right in the following districts: A-1, Agricultural District; RR, Rural Residential; R-1, Single Family Residential\*; R-2, Single Family Residential\*; and R-3, One- and Two-Family Residential\*;
  - \* In the R-1, R-2 & R-3 Districts, Accessory Dwelling Units are permitted by right, if:
    - Not in a recorded major or minor subdivision, or
    - Explicitly allowed per recorded subdivision plat.
    - If neither of the above apply, a Special Exception is required.
15. Regulations Applicable to Specific Uses - Accessory Dwelling Units (Johnson County Zoning Ordinance)
  - There may be no more than one accessory dwelling unit per lot.
  - An accessory dwelling unit’s building area shall be no greater than 75% of the building area of the associated primary dwelling, and no greater than 1,000 square feet. The accessory dwelling unit’s building area shall not count toward the accessory building area restrictions of Section 6-101-5-C.4
  - The property owner’s principle residence must be the property’s primary or accessory dwelling.
16. *Petitioner’s proposed Accessory Dwelling Unit use would be permitted by right, if the property were to fall under the authority of the Johnson County Zoning Ordinance, and if it was zoned into any of the listed single-family residential districts currently outlined in that ordinance.*

### **Parking Standards**

17. According to Article 7.10 of the Zoning Ordinance, 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.
18. According to Article 7.10 of the Zoning Ordinance, a minimum of 2 off-street parking spaces are required for each dwelling unit.
19. All required parking spaces must be designed to provide direct access for vehicles. In no case may areas which do not have direct access be considered a parking space meeting the requirements of this Ordinance (example: a residential driveway shall not be considered a parking space meeting the requirements of this Chapter if a parked vehicle in the driveway prevents direct access to a required parking space in a garage or carport).
20. A minimum of four (4) off-street parking spaces are required for the main residence and the proposed accessory dwelling. Two dwelling units = 4 spaces required.
21. The proposed structure will provide one (1) additional parking spaces, on top of the existing parking already provided for the primary residence.

### **Comprehensive Plan & Zoning Ordinance**

22. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Small-Lot Suburban Residential. "Small-lot suburban residential areas are intended to include primarily single-family detached residences. Other uses in small-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from large-lot suburban residential areas by lot size, setbacks, density, and possibly home size. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood."
23. 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.
24. Article 11, Chapter 4 states "Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be invalid if (1) the property conforms with the Ordinance as written, or (2) the special exception approval is terminated (consistent with Section 2.5(L))."
25. Article 11, Chapter 4 states "A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special exception."

### **CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:**

#### **(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Article 11.4 of the Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

## **DECISION CRITERIA – SPECIAL EXCEPTION**

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:**

The approval of the special exception will not be injurious to the public health, safety, or general welfare of the community, as there will be sufficient off-street parking provided and the proposed dwelling would be less than 1,000 sq. ft. with only one bedroom. Moreover, this property is located in an unincorporated area of Johnson County, but within the Extraterritorial “Buffer Zone” Jurisdiction of the City of Franklin; if this property was subject to the Johnson County Zoning Ordinance, the proposed accessory dwelling would be permitted by right. Therefore, staff finds the proposal will not affect the general welfare in any way.

2. ***Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.***

### **Staff Finding:**

The proposal will meet the development standards for parking, setbacks, and limitation on size for accessory dwellings; however, a developmental standards variance will be required to allow the dwelling to be located on the ground floor of a detached garage.

3. ***Ordinance Intent: Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.***

### **Staff Finding:**

The requested use is listed as a special exception under the RSN zoning district regulations and the property is surrounded by other residential properties and uses. Moreover, this property is located in an unincorporated area of Johnson County, but within the Extraterritorial “Buffer Zone” Jurisdiction of the City of Franklin; if this property was subject to the Johnson County Zoning Ordinance, the proposed accessory dwelling would be permitted by right. Therefore, staff finds the proposal will not be contrary to the general purposes of the Zoning Ordinance, nor permanently injure other properties or uses.

4. ***Comprehensive Plan: The granting of the variance (will or will not) be consistent with the character of the zoning district in which it is located, and (will or will not) be consistent with the Franklin Comprehensive Plan.***

### **Staff Finding:**

The granting of the special exception does not interfere with the Comprehensive Plan as it states: “also encouraged is the occasional incorporation of accessory residences.”

**Please Note:** The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of an approval.

## **STAFF RECOMMENDATION – SPECIAL EXCEPTION**

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

- a. Special Exception approval is for a single accessory dwelling unit and runs with the subject property.
- b. The property owner’s principle residence must be the property’s primary or accessory dwelling.
- c. Expansions to the accessory dwelling unit living area square footage shall be prohibited beyond 1,000 square feet.
- d. A minimum of two off-street paved parking spaces are required to be provided per dwelling unit, on-site.
- e. 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:**

The approval of the variance will not be injurious to the public health, safety, morals or general welfare of the community, as an accessory dwelling on the ground floor of the proposed detached garage will not affect the general welfare any more, than if it were constructed above a garage on a second level.

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 use and value of the adjacent properties will not be affected in a substantially adverse manner, as a single-story detached accessory dwelling and garage structure would likely have lesser visual impact on neighboring properties than a two-story detached structure.

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 a practical difficulty. The subject property is located in an unincorporated area of Johnson County, but within the Extraterritorial “Buffer Zone” Jurisdiction of the City of Franklin; if this property was subject to the current Johnson County Zoning Ordinance, instead, the proposed accessory dwelling would be permitted by right. Therefore, the strict application of the terms of the City of Franklin Zoning Ordinance will result in practical difficulties for the subject property, located in unincorporated Johnson County.

**Please Note:** The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

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

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

- a. Variance approval is for a single accessory dwelling unit on the ground floor of a detached accessory structure.
- b. Expansions to the accessory dwelling unit living area square footage shall be prohibited beyond 1,000 square feet.
- c. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.