



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 30, 2022
Re: Cases **ZB-22-12 (V) | 350 E Monroe Street**

REQUESTS:

Case ZB-22-12 (V)...Shale Creek Brewing. A request by Shale Creek Brewing, case number ZB 2022-12 (V), a request for a Use Variance to allow a Recreational Use (Small Scale) - Microbrewery, in the RTN: Residential, Traditional Neighborhood zoning district. The subject property has a common address of 350 E Monroe Street, and is located on the west side of the public alley running north-south between Monroe Street and Jefferson Street, and is located behind (north) 348 E Monroe Street.

PURPOSE OF STANDARD:

The "RTN," Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

ZONING:

Surrounding Zoning:

North: MXD: Mixed-use, Downtown Center
South: RTN: Residential, Traditional Neighborhood
East: MXD: Mixed-use, Downtown Center
West: RTN: Residential, Traditional Neighborhood

Surrounding Land Use:

North: Franklin Liquors
South: Single-family Residential
East: Single- & Multi-family Residential
West: Single-family Residential

CONSIDERATIONS:

Proposed Use

1. Shale Creek Brewing (Mike & Jenni Baker), Petitioner, request a Use Variance approval to allow a Recreational Use (Small Scale) – Microbrewery, at the subject property, which is zoned RTN. [See [Exhibit A: Use Variance Letter](#)]
2. Petitioner is proposing to re-use the existing commercial structure/warehouse (4,400 sq. ft.) as a beer brewing facility only, with no on-site bar/pub for customers, in support of the actual Shale Creek Brewing restaurant/brewpub location on W. Jefferson St. [See [Exhibit B: Preliminary Building Plans](#)]
3. Petitioner stated the hours of operation for the brewing work would be during the day, Monday through Friday, with brewing typically occurring on Wednesday, and a second day a few times a year. Other work on-site would include prep-work, kegging, cleaning kegs, and loading kegs for delivery, with most work completed by the owner. There would be one part-time employee on-site one day a week.
4. During the summer, the beer trailer would be parked on-site; however, it would be stored off-site during other times of the year. There are no other business vehicles that would be kept on-site.
5. Recreational Use (Small Scale) is defined as: “Recreational uses that tend to serve a local area and include establishments such as billiard rooms, arcades, nightclubs, brewpubs, and bars.

6. Microbrewery (Brew-Pub) is defined as: “A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment.”
7. According to Article 3, Chapter 2 of the City of Franklin Zoning Ordinance, Recreational Use (Small Scale) Microbrewery, is listed as a **Permitted use** in the MXD: Mixed-use, Downtown Center; MXC: Mixed-use, Community Center; and MXR: Mixed-use, Regional Center zoning districts.
8. According to Article 3, Chapter 2 of the City of Franklin Zoning Ordinance, Recreational Use (Small Scale) Microbrewery, is listed as a **Special Exception use** in the MXN: Mixed-use, Neighborhood Center; and IBD: Industrial, Business Development zoning districts.
9. Use Variance Request: Recreational Use (Small Scale) “Microbrewery” use is a non-permitted use in the RTN zoning district. *A “microbrewery” use is permitted in the MXD: Mixed-use Downtown Center zoning district, which is contiguous with the subject property on two sides; therefore, Petitioner is requesting Use Variance approval for a Microbrewery in the RTN zoning district.*

Parking Standards

10. 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.
11. According to Article 7.10 of the Zoning Ordinance:
 - one (1) off-street parking space is required for every employee on the largest shift; and
 - one (1) off-street parking space is required for every business vehicle stored onsite;
 - Minimum parking stall size is 9’ x 18’ and must be striped.
 - Each parking space must be paved with asphalt or concrete.
12. According to Article 7.10 of the Zoning Ordinance, Petitioners would be required to provide:
 - Two (2) employee parking spaces; and
 - One (1) parking space for the business vehicles stored onsite;
 - For a total of three (3) required parking spaces.

Comprehensive Plan & Zoning Ordinance

13. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Core Residential. “The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin’s historically significant homes. Land uses in these areas should be dominated by a diversity of single-family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated. The most significant land use relationships in this area are between the area’s residential and non-residential uses, and between the area as a whole and the downtown. The area’s mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area’s sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes.”

14. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies the properties immediately adjacent to the North and East as Downtown. “Future land use in the downtown area should support the function of the area as a unique focal point and gathering place for the Franklin community. Downtown Franklin should serve the City as a dynamic activity center that includes retailers, professional offices, residences, civic groups, government facilities, restaurants and bars, and service providers. Future land uses in the downtown should contribute to the establishment of an activity center with a mix of land uses which enhance the current community character that the downtown provides.”
15. 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.
16. 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:

The approval of the use variance will not be injurious to the public health, safety, morals, or general welfare of the community, as the subject property has been used for various commercial activities throughout the years and said property boundary, on two sides, is contiguous to the MXD: Mixed-use, Downtown Center zoning district, where a microbrewery use is permitted by right. Moreover, the microbrewery will be completely contained inside the building, except for loading of deliveries, and it will not involve on-site customers.

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 adjacent properties will not be affected in a substantially adverse manner, as the subject property has been used for various commercial activities throughout the years and said property boundary, on two sides, is contiguous to the MXD: Mixed-use, Downtown Center zoning district, where a microbrewery use is permitted by right. Moreover, the microbrewery will be completely contained inside the building, except for loading of deliveries, and it will not involve on-site customers.

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 arises from a condition peculiar to the property involved, as the subject property and warehouse building has been designed and used strictly for commercial uses, and is not conducive for single-family residential usage. In 2004, the City of Franklin zoning map was updated to place the subject property in the RTN: Residential, Traditional Neighborhood zoning district; as a result, the

commercial uses occurring on-site became “nonconforming” by the current zoning ordinance. In order to be permitted a new commercial use on-site, a use variance or a complete rezoning would have to be approved; therefore, staff finds the need for the variance does arise from a condition peculiar to the property involved.

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 they are applied to the property, as the subject property and warehouse building has been designed and used strictly for commercial uses, and is not conducive for single-family residential usage. In 2004, the City of Franklin zoning map was updated to place the subject property in the RTN: Residential, Traditional Neighborhood zoning district; as a result, the commercial uses occurring on-site became “nonconforming” by the current zoning ordinance. In order to be permitted a new commercial use on-site, a use variance or a complete rezoning would have to be approved; therefore, staff finds the need for the variance does arise from a condition peculiar to the property involved.

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 variance does not interfere substantially with the Comprehensive Plan, as the use is complimentary to the “Downtown” area as defined in the Comprehensive Plan Land Use Plan. Although the subject property is not located within the “Downtown” area on the Land Use Plan map, “Downtown” is contiguous to the subject property on two sides; therefore, the granting of the variance does not interfere substantially with the Comprehensive Plan.

STAFF RECOMMENDATION – USE VARIANCE

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

- a. Use variance approval is for a recreational use (small scale) microbrewery use, and the approval runs with the petitioner, Shale Creek Brewing, at the subject property.
- b. Approval is limited to brewing of beer. On-site sales, sampling, restaurant activities, or any other type of consumption by customers is prohibited.
- c. A minimum of three (3) parking spaces are required to be provided on-site.
- d. All applicable federal, state, and local permits/approvals are required; including, but not limited to, compliance with all building and fire codes.