

## MINUTES

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

December 7, 2022

#### **Members Present**

Jim Martin  
Brian Alsip  
Bill Carson

Chairman  
Member  
Member

#### **Members Absent**

Ashley Zarse

Secretary

#### **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.

Attorney Lynn Gray swore in new member Bill Carson.

#### **Roll Call & Determination of Quorum**

#### **Approval of Minutes**

Attorney Gray pointed out a typo on page two. With said correction, Mr. Carson made a motion to approve the October 5, 2022 minutes. Brian Alsip seconded. The motion passed unanimously, 3-0.

#### **Swearing In**

Lynn Gray swore en masse anyone planning to speak.

#### **Old Business**

None.

#### **New Business**

**ZB-22-10 (SE) – Johnson County Solid Waste Management District** – Ms. Gray disclosed that she is the attorney for the Johnson County Solid Waste Management District. She helped draft the purchase agreement for this parcel, although she did not assist with this request application. Further, she has no vested financial interest. Alex Getchell introduced this special exception request for a property on North Graham Road. It is north of Commerce Drive and on the west side of Graham Road, immediately north of Under One Woof Dog Kennel and across the street from G & H Orthodontics building. The Johnson County Solid Waste Management District is relocating their recycling center. It is currently located at 900 Arvin Road. The property is zoned IL (Industrial: Light) and surrounded by the same zoning on all sides. They are seeking a special exception for the use prior to doing any site development plan design.

The purpose of the request now, is for getting the use in place before they design the entire facility. They would incorporate environmentally sustainable initiatives and it will be a drive through facility as it is currently. The Comprehensive Plan calls for the area to be light industrial uses. The request is to allow a government facility non-office use in this zoning district.

Kevin Walls presented as the president of Johnson County Solid Waste District. He expressed their desire for a special exception. Ms. Gray described the make-up of the Johnson County Solid Waste District board. Mr. Walls addressed the four decision criteria.

1. General Welfare: It will not be injurious to the surrounding areas.
2. Development Standards: They will be met as set forth.
3. Ordinance Intent: It will not be contrary to the general purposes of the Zoning Ordinance.
4. Comprehensive Plan: It will not interfere substantially with the Comprehensive Plan.

Mr. Martin opened a public hearing. There being no respondents, he closed the hearing and called for any questions from the board. There being none, he called for Mr. Getchell's staff report.

Mr. Getchell gave staff's recommendation for approval with conditions, as outlined in the staff report:

- a. Special Exception approval for a Government Facility (Non-office), shall run with the petitioner at the subject property.
- b. Parking spaces shall be provided in accordance with the City of Franklin Zoning Ordinance, Article 7, Chapter 10, Parking Standards, including a minimum of one parking space per:
  - i. employee on the largest shift,
  - ii. business vehicle stored on-site; and
  - iii. every 250 sq. ft. of office space.
- c. At least one (1) space provided must be reserved for disabled persons for every twenty-five (25) parking spaces required on-site, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions

Mr. Walls stated acceptance of all conditions. Mr. Alsip made a motion for approval with staff's three conditions. Mr. Carson seconded. The motion passed unanimously, by roll call, 3-0.

**ZB-22-11 (V) – Mitch & Jonella Salyers** – Mr. Getchell introduced this developmental standards variance request at 1225 East King Street. It is located just east of Middleton Drive on the south side of East King Street and west of the roundabout. The request is to be able to build a tudor-style carport in the front of their property. It is to allow an accessory structure within a front yard. When the subdivision was originally platted, this property had a 60-foot front building setback, but the actual homes in the subdivision were all constructed approximately 135 feet from the road. By ordinance a front yard is considered to be all areas closer to the road than the front foundation line of the house. In this case the carport would be located approximately 100 feet from the King Street right-of-way and would be considered in the front yard. The petitioner desired to place the carport on the west side of the property. However, in that area there is a 10-foot utility easement preventing them from that placement and still access the garage. The variance is to request placement on the east side of the property by the driveway. The property zoning is RSN (Residential: Suburban Neighborhood) and the Comprehensive Plan calls for the area to be large lot suburban residential. The carport would be on the

east side of the lot, south of the circular drive. Petitioners submitted a letter in support of their request for Board review.

Mitch Salyers described the layout of their 4200 square foot home with a two-car side load garage and the limitations it places on their ability to add on additional parking space to the back. The house frontage is the width of the property. He has landscaped both sides of the house. He wanted to place the garage on the west side, but the 10-foot easement prohibits that. Their eastside neighbor, Mr. and Mrs. Jim Admire, have expressed their full approval for this request. The proposed location is behind the pine trees in front of the house. It will maintain the same roof style as the home from Cornett Roofing and match the tudor style.

Mr. Salyers addressed the three decision criteria, as follows:

1. General Welfare: The approval will not be injurious to the public health, safety, morals or general welfare of the community.
2. Adjacent Property: The use and value of the area adjacent to the approval will not be affected in a substantially adverse manner.
3. Practical Difficulty: The strict application of the terms of the ordinance will result in a practical difficulty.

Mr. Martin opened a public hearing. Ms. Gray asked if the practical difficulty is because the lot is narrow. Mr. Salyers confirmed that there is no side yard to gain entrance to the back yard, explaining that it is a narrow lot with a large front and back yard, but no side yards as the frontage of the home runs almost entirely the width of the property. The public hearing was closed with no respondents and no board members had any questions.

Mr. Getchell gave staff's recommendation for approval with conditions, as outlined in the staff report:

- a. All applicable permits and approvals shall be obtained prior to placement/construction, including but not limited to an Improvement Location Permit ("building permit").
- b. The carport shall be constructed in the Tudor style to match the residence, and as depicted in the building plans submitted with this request.
- c. The carport must be located south of the circular drive and must not encroach into the side yard setback.

The petitioner accepted the conditions. Mr. Alsip made a motion for approval with the conditions outlined by staff. Mr. Carson seconded. Passed unanimously by roll call vote, 3-0.

**ZB 22-12 (UV) – Shale Creek Brewing** – Mr. Getchell presented the use variance request by Mike and Jenny Baker representing Shale Creek Brewing for the property at 350 East Monroe Street. The property is located on the alley running north and south between Jefferson and Monroe Street, east of Crowell. The subject property has a commercial building on it and has had commercial uses in there in the past. The petitioners requested at this time to be allowed to do a recreational use, small-scale micro-brewery in the RTN (Residential: Traditional Neighborhood) zoning district. The property has long been used for commercial uses, but at some point in time, the city, through a zoning map update, included this property in the Residential Traditional Neighborhood zoning district. Any commercial use of the property is considered legal non-conforming. Any new commercial use has to secure a use variance. It could be used for residential, but the property is not set up for residential nor designed residentially. The property is adjacent to the MXD (Mixed Use: Downtown Center) zoning district on the north and east sides. The MXD (Mixed Use: Downtown Center) permits micro-breweries by right. The petitioners

were not proposing any on-site customers at the location. It is a beer brewing facility in support of their business on West Jefferson Street and would include two on-site employees. The Comprehensive Plan calls for this property and area to be core residential. As in the zoning, the Comprehensive Plan calls for “downtown” uses adjacent to it as well. In addition to petitioners’ submission of a conceptual floor plan and letter addressing the decision criteria, letters were received from adjacent property owner Bea Chandler and from Jim and Sarah Carroll from 303 East Monroe Street. Mr. Getchell ascertained that their specific concerns might be addressed by lack of onsite customers. Their concerns included parking issues, noise, safety, additional encroachment by another liquor establishment in the neighborhood, and further improvements resulting in the loss of the charm and beauty of the historical neighborhood. Ms. Gray sought clarification that it is a legal non-conforming use for some type of commercial business. Mr. Getchell affirmed but explained not for a micro-brewery. The location is set back from Monroe.

Shale Creek Brewing owners Mike and Jenny Baker presented. The brewing section within the building is smaller, so they are looking at options. The building at 350 East Monroe has been in their family for approximately 30 years and just within the last week has transferred ownership to the Bakers. They have used the building since 2014 or 2015 for brewery storage. They were looking for additional brewing space not in the downtown. They receive grain deliveries at their downtown location once a month. It is difficult on Jefferson Street and the space within the brewery is small.

Addressing the concerns raised, Ms. Baker reiterated that there would only be two employees. Mr. Baker only brews on Wednesdays. Other days are spent keg cleaning and transitioning beers. There will be no customers or sales onsite. The second employee would only be part-time and potentially only seasonal.

They addressed the five decision criteria, as follows:

1. General Welfare: They felt the MXD (Mixed Use: Downtown Center) does accommodate micro-brewing.
2. Adjacent Property: The building was originally built as a commercial building and warehouse in the 1930’s. Two sides are already mixed use with businesses and the other two sides are residential.
3. Peculiar Situation: The building was not built as a residential or single-family structure. The variance is desired to allow a commercial use rather than for a residential, single-family home.
4. Unnecessary Hardship: It would cause a financial hardship if they couldn’t increase capacity and use the building commercially.
5. Comprehensive Plan: Their requested variance would not interfere with the objective of the Comprehensive Plan.

Mr. Martin opened a public hearing. Resident Jim Carroll of 303 E Monroe Street expressed concern over possible increased noise and any potential odors. The Bakers responded with no additional noise and only a possible slight wet grain smell on brewing Wednesdays.

Resident James Alexander of 300 E Monroe backs up to the property. He asked about the mixed use classification and if that could change in the future to allow for customers. Ms. Gray explained that it already a legal non-conforming use or grandfathered. It could be used without any variance for certain types of business. Mr. Getchell added that with this approval, it would only be for this specific type of use. A use variance only allows one specific use as approved by the Board. A re-zoning change would allow multiple uses, but not a single, one use variance. As it currently exists, it could be used for business, but micro-brewery is not one. Mr. Alexander expressed concern over 18-wheelers delivering

grain on Jefferson Street making the turn by the liquor store into the alley and damaging other properties along the alley.

Remonstrator Pat Shook commended Mr. Baker as a positive neighbor. He also reiterated the concern about the damage 18-wheelers are causing. Mr. Baker responded that they have a strict policy for only box truck deliveries, and they are only once a month.

The public hearing was closed. Board members had no questions. Chairman Martin requested staff's recommendation.

Mr. Getchell presented staff's recommendation for approval with conditions, as outlined in the staff report:

- 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.

Ms. Gray asked if petitioners would commit to box truck deliveries only and they agreed. Mr. Alsip asked if there would ever be brewery tours. The petitioners said there would be no tours. Mr. Alsip followed up to ask if all remonstrators' concerns had been addressed, and the answer was in the affirmative. Mr. Alsip made a motion for approval with staff's four conditions and the additional commitment of box truck deliveries only. Mr. Carson seconded. The motion passed unanimously by roll call vote, 3-0.

#### **Other Business**

Approval of 2023 BZA Calendar of Meeting Dates – Mr. Getchell explained the July meeting date to be the only change due to the fall of the July 4 holiday, making the BZA meeting July 12. Mr. Carson made a motion for approval. Mr. Alsip seconded. Passed unanimously, 3-0.

Election of Officers – Vice Chairman (Vacant) – Mr. Alsip made a motion to appoint Mr. Carson as Vice Chairman. Mr. Martin seconded. Passed unanimously, 3-0.

#### **Adjournment:**

There being no further business, Mr. Carson moved to adjourn. Mr. Alsip seconded. Passed unanimously, 3-0.

Respectfully submitted this 4th day of January, 2023.

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Jim Martin, Chairman

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Ashley Zarse, Secretary