

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

September 6, 2023

Members Present

Jim Martin
Bill Carson
Ashley Zarse
Joe Abban
Brian Alsip

Chairman
Vice Chairman
Secretary
Member
Member

Not Present

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

Brian Alsip made a motion to approve the July 12, 2023 minutes. Ashley Zarse seconded. The motion passed unanimously, 5-0.

Swearing In

Ms. Gray swore en masse anyone planning to speak.

Old Business

None.

New Business

ZB-23-9 (V) – Festival Country Indiana – Alex Getchell introduced this developmental standards variance request for Benjamin's property at 49 E Court Street. The variance is related to a public art mural proposed on the south façade of the building which is the north wall of the Kuji alley. It is for a public art mural on only the masonry portion of the façade. The request is for the full wall height by 75' in length. They do not propose to use the entire wall for the mural but allowing for artistic license. They plan to be below the window sills. It will be a 2D work with paint on the wall with 3D elements off the wall two to three inches. Multiple art installations will go in simultaneously with Festival Country, City of Franklin and the Public Art Advisory Commission as project partners. This portion is being brought by Festival Country. The south wall of the alley is already painted with koi fish. Additional paint will be

used to update the koi fish mural. Light poles and sidewalk furniture will be placed in the alley. Murals are a sub-type of a wall sign according to the zoning ordinance. Staff has requested petitioner to exclude the mural content so BZA can review based on location and contextual fit with the surrounding properties. Local government is not permitted to judge based on message content due to first amendment freedom of speech law. If approved by BZA, it would next go to PAAC who would review the content, contextual appropriateness and quality of materials. The zoning of the property is MXD (Mixed Use: Downtown Center), and the Comprehensive Plan calls for the area to be downtown uses. The mural location is in the heart of the cultural arts district. The detail of the requested variance is to allow a mural on the south facing exterior façade wall the full wall height by 75' in width and the mural to be permitted in addition to the sign allowance for the property. This results in three variance requests.

1. A variance to increase the maximum number of signs.
2. A variance to increase the maximum area of a wall sign. In the downtown district, 50 square feet is the maximum.
3. A variance for the maximum total sign area allowed.

This is to allow a mural in addition to the signage allowance for the property, so it will not prevent Benjamin's or any other owner of the property from putting signage they would otherwise legally be allowed.

Ms. Gray asked if the property owner's permission had been given to make the request. Ken Kosky stated having received a signed document from Rick and Pam Service.

Festival Country director Mr. Kosky explained Festival Country to be the organization that worked with other entities to do the Artcraft Alley last year. Both the Artcraft and Kuji alleys are part of Franklin's effort to become a state cultural and arts district. The third and final proposed alley is the veteran's alley. Mr. Kosky addressed the decision criteria, as follows:

1. General Welfare: The same contractor is being used who did the Artcraft alley as well as a muralist whose work is throughout Franklin, so they are using quality people whose art has been accepted in the area. PAAC will approve the content. All those who have seen the art are very excited.
2. Adjacent Property: This project will complete the original vision to have a mural on both sides of the alley. The building owner has given his permission to complete the second side of the alley.
3. Practical Difficulty: It will be a large scale, "instagramable" project. Staff recommendations will be complied with.

Mr. Martin opened a public hearing. There being no respondents, the public hearing was closed.

Ms. Gray advised Mr. Kosky that he could share the art after the meeting. As a government entity, the BZA must remain content neutral.

Joe Abban expressed his enthusiasm for the alleys coming to life as they become a destination of their own as Franklin develops pedestrian thoroughfares.

Mr. Alsip asked if the 3D feature would be comparable to the courthouse annex installation. Mr. Kosky and Mr. Getchell responded that it will be similar to some degree with a metal finish, and some parts

will not be similar. Mr. Alsip acknowledged this would not be completely new to the city. Ms. Gray identified the lighting supports to be comparable the Artcraft alley star canopy installation. Mr. Alsip expressed his support for the Franklin art movement. Ms. Gray explained the legal ramifications and boundaries of these types of projects.

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

- a. The mural must receive approval from the City of Franklin Public Art Advisory Commission prior to applying for & obtaining a sign permit, and prior to starting work on the painting of the mural.
- b. All revisions to the design of the mural, and all future mural designs must be reviewed by the Franklin Public Art Advisory Commission prior to starting work on the painting of the mural.
- c. Designs must not include nudity, suggestive poses, hate speech or imagery that any group might find obscene, offensive or morally shocking.
- d. The mural must be maintained in accordance with the Franklin Public Art Advisory Commission's approval, stated guidelines and design criteria, for the life of the mural, including all future mural designs.
- e. Petitioner shall coordinate with the City of Franklin Board of Public Works & Safety on the closure times and dates, if necessary, of the alley prior to starting work on the painting and installation of the mural.
- f. The mural must be completed within ninety (90) days of the start of painting/work.
- g. Mural content must remain unchanged, except for complete or partial removal, or repair of damaged or faded paint for a minimum of three (3) years.
- h. The mural must be painted, and 3D elements installed, directly on the building surfaces using exterior paint and a protective graffiti block clear-coat.
- i. Lighting of the mural must comply with the Exterior Lighting Standards in the Zoning Ordinance, Article 7, Chapter 18, specifically for Lighting of Building Façades.

Mr. Kosky reiterated his agreement with all staff's conditions.

Bill Carson made a motion for approval with the recommended conditions. Mr. Abban seconded. Passed unanimously by roll call vote, 5-0. Mr. Kosky gave a verbal description of the art installation.

Other Business

Mr. Alsip announced his resignation from the board effective tomorrow. He expressed his pleasure in serving. He is moving out of City Limits on Saturday. Attorney Gray thanked him for his service.

Adjournment:

There being no further business, Mr. Carson moved to adjourn. Mrs. Zarse seconded. Passed 5-0.

Respectfully submitted this 4th day of October, 2023.

Jim Martin, Chairman

Ashley Zarse, Secretary