



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: February 28, 2024

Re: Cases **ZB-24-1 (UV) | 44 N Jackson Street**

REQUESTS:

Case ZB-24-1 (UV)...John & Tracey LLC. A request by John & Tracey LLC, case number ZB-24-1 (UV), a request for a Use Variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 2, to be allowed a golf cart sales facility use, in the MXD: Mixed-use, Downtown Center zoning district. The subject property has a common address of 44 N Jackson St.

PURPOSE OF STANDARD:

The "MXD," Mixed-Use: Downtown Center zoning district is intended to provide for the continued viability of the historic central business district. This district is also intended to accommodate and support the use of existing structures within the downtown. It is further intended to permit the continued, contextually appropriate development of the area through re-use and infill development.

ZONING:

Surrounding Zoning:

North: MXD: Mixed-use, Downtown Center
South: MXD: Mixed-use, Downtown Center
East: MXD: Mixed-use, Downtown Center
West: MXD: Mixed-use, Downtown Center

Surrounding Land Use:

North: CenturyLink
South: Various downtown retail/office uses
East: Huddleston & Huddleston Law Office
West: Various downtown retail/office uses

CONSIDERATIONS:

Proposed Use

1. John & Tracey LLC, Petitioner, requests a Use Variance approval to allow a golf cart sales facility use, at the subject property, which is zoned MXD. Petitioner's proposal includes removing most of the interior walls and creating a large open showroom. Plans indicate the main entrance & signage would be flipped to enter off the alley to the west. [See [Exhibit A: UV Decision Criteria](#) & [Exhibit B: Building Plans](#)]
2. Petitioner recently bought the property, which was formerly Franklin City Hall & later used for retail.
3. Petitioner has indicated there will never be any golf carts parked/stored/displayed, for any length of time, outside of the structure; even during business hours.
4. According to Article 3, Chapter 2, Land Uses, Unlisted or Questionable Land Uses, "Any use not listed as a permitted use or special exception use is considered non-permitted. The Planning Director may determine into which category any questionable use is placed if it is not specifically listed but is similar to another use that is permitted or a special exception use."
5. Staff has determined the proposed use of the property is most similar to the auto-oriented uses (large scale) – including automobile/motorcycle and/or recreational vehicles sales and service, which is listed in the land use table as non-permitted in the MXD: Mixed-use, Downtown center zoning district.

6. Auto-oriented uses (large scale) is defined as: “Uses such as sales and service of automobiles, motorcycles and/or recreational vehicles, and others listed under the heading of Auto-Oriented Uses, Large Scale by the Land Use Matrix included in this Ordinance. This does not include any uses, such as auto repair shops or gas stations, listed under the headings of auto-oriented uses medium or small scale.
7. According to Article 3, Chapter 2 (see table below) of the City of Franklin Zoning Ordinance, Auto-oriented uses (large scale), is listed as a **permitted use** in ONLY the MXC: Mixed-use, Community Center; and MXR: Mixed-use, Regional Center zoning districts.

Primary Land Use		Zoning District															
		A	RR	RSN	RS 1,2,3	RTN	RT 1,2,3	RM	RMH	MXD	MXN	MXC	MXR	IN	IBD	IL	IG
<div><div>P</div> Permitted Use</div>	<div><div>S</div> Special Exception Use</div>																
Auto-oriented uses (small scale)																	
Gas-station																	
Car wash																	
Auto-oriented uses (medium scale)																	
Auto repair and body shop																	
Vehicle detailing/accessory shop																	
Oil change shop																	
Auto-oriented uses (large scale)																	
Automobile/motorcycle sales & service																	
Recreational vehicle sales and service																	

8. Use Variance Request: Auto-oriented uses (large scale) are non-permitted uses in the MXD zoning district; *therefore, Petitioner is requesting Use Variance approval for an electric golf cart sales use (auto-oriented uses) in the MXD zoning district.*

Parking Standards

9. 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.
10. According to Article 7.10 of the Zoning Ordinance:
 - No parking is required in the MXD zoning district;
 - In all other districts, the following parking standards apply:
 - one (1) off-street parking space is required for every employee on the largest shift;
 - one (1) off-street parking space is required for every business vehicle stored onsite;
 - one (1) off-street parking space for every 500 sq. ft. in an auto sales facility show room; and
 - one (1) off-street parking space for every vehicle on display (outside) at an auto dealership;
 - Minimum parking stall size is 9' x 18' and must be striped.
 - Each parking space must be paved with asphalt or concrete.
 - A minimum of one bicycle parking space for every 30 vehicle parking spaces required by ordinance.
11. According to Art. 7.10 of the Zoning Ordinance, the following would be required in non-MXD districts:
 - Four employees on largest shift: 4 parking spaces;
 - Zero business vehicles stored onsite: 0 parking spaces;

- Five (5) parking spaces for showroom area (~2,500 sq. ft.); and
- Zero vehicles on display (outside) at an auto dealership: 0 parking spaces;
- For a total of nine (9) required parking spaces.
- A minimum of 2 bicycle parking spaces.

12. The MXD district does not require any on-site parking.

Comprehensive Plan & Zoning Ordinance

13. The 2013 Comprehensive Plan, Future Land Use Map, identifies this area 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.”
14. 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.
15. 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. Albeit an “automobile sales facility” use, the vehicles for sale (electric golf carts only) will be kept inside the facility at all times and will not be stored or displayed outside at any time; therefore, the showroom will function like a retail use, which is permitted in the MXD zoning district. Moreover, petitioner will not be storing vehicle carrier trailers/haulers on-site.

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 proposed golf carts for sale will be kept inside the facility at all times and will not be stored or displayed outside at any time; therefore, the showroom will function like a retail use, which is permitted in the MXD zoning district. Moreover, petitioner will not be storing vehicle carrier trailers/haulers on-site.

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 is located in the MXD district, which is primarily composed of “downtown” professional or government office uses, as well as, retail & dining uses; occasionally, with upper floor residential, built at the front property line. The existing building on-site is setback 70 feet from the public sidewalk on Jackson Street, and has limited visibility from Jefferson St; whatever use is to succeed in this location will need to be a “destination” use and not an impulse-driven use. Staff finds petitioner’s proposal for a golf cart sales facility, with interior showroom only, would be a “destination” use, well suited for the subject property.

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 petitioner’s proposed use of the property, golf cart sales with an interior showroom only, would, from a land use standpoint, operate similarly to a specialty retail store use (permitted use in MXD district). Strictly applying the terms of the Ordinance, to differentiate retail clothing and/or other consumer goods from golf carts, when both business operations would occur entirely inside the building, would constitute an unnecessary hardship on the property.

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 would not substantially interfere with the Comprehensive Plan, as the Land Use Plan states “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.” Moreover, the Land Use Plan states “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.” Petitioner’s proposed use, with commitments to sell only golf carts and to only display/store/park golf carts inside, will function similarly to a specialty retail store, which is a permitted use. Therefore, staff finds the granting of the variance will not substantially interfere 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 an electric golf cart sales facility use, only, and the approval runs with the petitioner, John & Tracey LLC, at the subject property.
- b. All golf carts will be stored, parked, and displayed for sale inside the building at all times. Outdoor storage, parking, and display of golf carts for sale is prohibited.
- c. Parking or storage of vehicle carrier trailers and/or haulers on-site is prohibited. This regulation shall not be interpreted to apply to trailers/haulers used during the time and process of temporarily loading or unloading golf carts on-site.
- d. If off-street parking is provided, parking stalls must be a minimum of 9’ x 18’ and must be striped;
- e. All applicable federal, state, and local permits/approvals are required; including, but not limited to, compliance with all building and fire codes.