

## MINUTES

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

April 3, 2019

#### Members Present

|                     |               |
|---------------------|---------------|
| Jim Martin          | Chairman      |
| Phil Barrow         | Vice Chairman |
| Rev. Richard Martin | Member        |

#### Members Absent

|                    |           |
|--------------------|-----------|
| Charlotte Sullivan | Secretary |
| Brian Alsip        | Member    |

#### Others Present

|               |                     |
|---------------|---------------------|
| Alex Getchell | Senior Planner I    |
| Lynn Gray     | Legal Counsel       |
| Julie Spate   | Recording Secretary |

#### Call to Order

Jim Martin called the meeting to order at 6:00 pm.

#### Roll Call & Determination of Quorum

#### Approval of Minutes

Rev. Richard Martin made a motion to approve the March 6<sup>th</sup> minutes. Phil Barrow seconded the motion. The motion passed, unanimously, 3-0.

#### Swearing In

Lynn Gray swore en masse anyone planning to speak.

#### Old Business

##### ZB 2019-01 (V) – 899 N Main St.

Alex Getchell reminded this case to have been continued from last month's meeting, due to four properties still needing to receive notification, and certification that those notices were sent. He stated that has been completed and the case is ready to be heard by the Board. Mr. Getchell stated the request is for developmental standards variance at 899 N Main St. The property is zoned RTN for Residential Traditional Neighborhood and the Comprehensive Plan calls for the area to have traditional residential land uses. The request details are to allow a deck addition to encroach in to the side yard setback. A minimum of five feet is required, and the petitioner is proposing zero feet. Mr. Getchell stated the deck has already been mostly constructed and showed the Board aerial photos from December, 2018 and site inspection photos from January, 2019. He stated it is believed the chainlink fence in the inspection photos is along the property line and the deck is constructed just inside the fence.

Petitioner, Freida Dowler, reviewed the decision criteria:

General Welfare: Mrs. Dowler stated they do not find their deck construction will affect the general welfare adversely.

Adjacent Property: Mrs. Dowler stated the use and value of adjacent properties will not be affected in a substantially adverse manner. She stated they have received letters from neighboring properties, which stated the deck will not affect them as far as they are concerned.

Practical Difficulty: Mrs. Dowler stated it is a matter of using the side yard. The side yard is very small and they hoped to put a deck out there so they can put a few chairs out to sit out there. She stated the deck will be a 7 foot wide deck and the strict application would have limited the deck to five feet in width, only allowing for one chair and a walkway.

Chairman Martin opened the public hearing by asking if there was anyone wishing to speak for or against the request. No one appeared.

Ms. Gray asked staff if a permit had been pulled for the deck and if one is necessary. Mr. Getchell stated a permit had not be applied for and one is necessary. He stated that if the variance were approved by the Board a permit would be required. Mr. & Mrs. Dowler acknowledged their need for a building permit and will apply tomorrow if approved.

Mr. Getchell presented staff's recommendation for approval with two conditions:

- a. All applicable permits and approvals shall be obtained prior to commencing construction or occupancy of the deck, including but not limited to an Improvement Location Permit ("building permit").
- b. Approval of the variance is limited to a deck, as proposed, and does not permit future encroachments into the side setback nor the conversion of the deck into living space.

Mr. Getchell stated the original staff report had a typo and should have said "does *not* permit future encroachments."

Ms. Gray asked the petitioner if the conditions were acceptable. Mr. Dowler confirmed they were acceptable. Ms. Gray asked the petitioner to confirm that the deck is not over the property line, as the Board does not have authority to encroach over the line. Mr. Dowler stated he is confident the deck is not over the property line.

Mr. Barrow made a motion to approve case ZB 2019-01 (V) with the staff recommended conditions. Rev. Martin seconded the motion. The motion passed, unanimously, 3-0.

### **New Business**

#### **ZB 2019-02 (V) – 249 S Main St.**

Mr. Getchell introduced the developmental standards variance request by Johnson County Community Foundation for the Richard's Brick Oven Pizza property, at 249 S Main St. The request is for a hand-painted mural on the south façade of the building facing the parking lot. The property is zoned MXD for Mixed Use Downtown Center, and the Comprehensive Plan Land Use Plan calls for downtown uses. The requested variances are to allow a public art mural to be painted on the south exterior façade, which is approximately 12 feet by 72 feet and for the mural to be permitted in addition to the signage allowance for the property. Mr. Getchell stated painted murals, regardless of content, are considered signage, so

they are requesting a variance to allow signage at the property along with the mural. It is part of the Color the County Mural program.

Kim Minton of Johnson County Community Foundation presented a background of the Color the County Mural Program and its history, which started four years ago and they have painted seven murals throughout Johnson County. Ms. Minton went over the decision criteria, thanking Mr. Getchell for his excellent preparation of the staff report and stating the applicant's agreement with staff's decision criteria findings regarding general welfare, adjacent property and practical difficulty as presented in the staff report.

Chairman Martin asked if anyone in the audience wished to speak for or against the request.

Erin Davis, stated she is last year's mural artist, and spoke in favor of the project. Ms. Davis said the mural program was the coolest experience for her as an artist and for her kids. She stated the mural program was a great opportunity to share art with the kids and the community. Ms. Davis stated she hoped the Board would approve this request.

Mr. Barrow asked what happens after the five-year commitment to maintain the art. Ms. Gray explained it will always be consistent with the guidelines for the life of the mural. Ms. Minton added the property owner owns the mural. The JCCF holds high standards for their work and would likely advise the owner should the mural ever reach a state of disrepair after the initial five years.

Rev. Martin asked if the city holds any responsibility for any deterioration of the façade and overhangs surrounding the mural. Ms. Gray responded no, that it is still private property. Ms. Gray explained that staff's recommendation for condition "c" addresses maintenance of the mural for its life.

Staff recommended approval of case no. ZB 2019-02 (V) with the following conditions:

- a. The mural must be hand-painted directly on the building surfaces using exterior paint and a protective graffiti block clear-coat.
- b. Mural content must remain unchanged, except for complete or partial removal, or repair of damaged or faded paint for a minimum of five years.
- c. The mural must be maintained in accordance with Johnson County Community Foundation's Color the County Mural program stated guidelines, for the life of the mural, including all future mural designs.
- d. 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.

Ms. Gray asked Ms. Minton if the conditions were acceptable. Ms. Minton stated they were and that most were already in the JCCF guidelines for the mural program.

Rev. Martin made a motion to approve ZB 2019-02 (V) with the four staff recommended conditions. Mr. Barrow seconded the motion. The motion passed, unanimously, 3-0.

#### **ZB 2019-03 (V) – 2800 N Graham Rd.**

Mr. Getchell introduced this developmental standards variance request by Impact Christian Church at 2800 N Graham Road. The property is zoned IBD for Industrial Business Development. The Comprehensive Plan designates this area as a business development area. The use of the property was previously approved to be a church by use variance in 2003. The details of this request is for a

developmental standards variance to allow an “other accessory use related to the primary use” in relationship to that church that was permitted by use variance. The zoning ordinance has a list of permitted accessory uses by zoning district. Staff has determined that since the use was not permitted in the zoning district, an “other accessory use” for that use is also not permitted in that district, and therefore requires this development standards variance approval. The property is located at the double bend in the road, south of Earlywood Drive. They have proposed a 30’ by 60’ building for their proposed accessory use. The other accessory use is for storage of donated items to be redistributed out to the community.

Robert McFadden, building chairperson, reviewed the decision criteria:

General Welfare: Mr. McFadden stated they believe there will be no negative effect to the general welfare. To the contrary, they will provide assistance to those in need in the community.

Adjacent Property: Mr. McFadden stated they are a buffer between warehouses and homes and farms, so he stated they will have no adverse effect on adjacent properties and will not affect the functionality of those properties. He stated it will be constructed to match their existing building and also be smaller. Two smaller storage buildings will be removed that are there now.

Practical Difficulty: Mr. McFadden stated that not being permitted to build this structure will continue the difficulty they have currently with donation storage for redistribution around the community. Members of the church are even storing some of their items in their personal garages and this building will allow them to get them out of their garages. Mr. McFadden stated their program utilizes volunteers to pick up donations and make the deliveries back out from their storage facility to the individuals in need.

Chairman Martin opened the public hearing by asking if there was anyone wishing to speak for or against the request. No one came forward.

Rev. Martin sought confirmation there would be no staff, no outside parking and no outside storage. Mr. McFadden confirmed there would not be any staff in addition to the current church staff and there will not be any outside around the building.

Mr. Barrow asked if there are any plans to expand the food distribution side of the ministry. Mr. McFadden stated there are not any plans to expand at this time.

Staff recommended approval of case no. ZB 2019-03 (V) with the following conditions, as outlined in the staff report:

- a. Approval is limited to a 30’ x 60’ structure, and the use is limited to storage for the church and donation items only.
- b. Use of the property as a donation drop-off location for the public and/or congregation is prohibited.
- c. Use of the property as a retail use is prohibited.
- d. Outdoor storage of donation items and materials is prohibited.
- e. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, Site Development Plan approval, Improvement Location Permits, and compliance with all building, fire, and health codes.

Ms. Gray asked the petitioner if the conditions were acceptable. Mr. McFadden stated they were.

Mr. Barrow made a motion to approve case no. ZB 2019-03 (V) with the staff recommended conditions. Rev. Martin seconded the motion. The motion passed, unanimously, 3-0.

**ZB 2019-04 (V) – 751 W Jefferson St.**

Mr. Getchell introduced the developmental standards variance request from 4 Point 5, LLC, at 751 W Jefferson St. The property is zoned MXC for Mixed Use Community Center and the Comprehensive Plan designates this area as a community activity center. The developmental standards request is to allow for a free-standing sign to be closer than 10 feet to the public right-of-way. It is believe the proposed location is approximately two-to-three feet from the right-of-way, but the sign will be five feet back from the public sidewalk. He stated the property is just west of the Walgreens. The proposed sign would be 4' in height by 8' in width, which is 32 sq. ft.

Dustin Huddleston, attorney for the petitioner, presented. He was accompanied by Joe Musgrave, partner of Jeff Paxson and principal of the LLC. The location was previously the Hughey Bail Bonds business. Mr. Huddleston gave update on purchase, financial commitments and property improvements. The entire project is to be completed late April or early May. He stated the requested sign size meets the ordinance requirements, and they are only requesting a variance for the location of the sign. Mr. Huddleston stated to place the sign in compliance with the ordinance, it would be right up against the front of the building. He stated they are proposing five feet from the sidewalk instead. Mr. Huddleston stated traffic sight lines will not be affected and demonstrated so with photos submitted with the request. He also stated several other area signs are also in similar locations. The petitioner adopted the staff's outline of the decision criteria as presented in the staff report. They additionally accept the staff recommended conditions. Ms. Gray clarified the request to be not in the right-of-way but rather two-to-three feet from the right-of-way. Mr. Huddleston confirmed that to be correct.

Chairman Martin opened the public hearing by asking if anyone in the audience wished to speak for or against the request. No one came forward.

Staff recommended approval of case no. ZB 2019-04 (V) with the following conditions, as outlined in the staff report:

- a. Sign permits shall be obtained prior to installation of all signage.
- b. Approval is limited to a sign a maximum of 32 sq. ft. in size and maximum of 5 feet in height.
- c. All parts of the sign must be setback a minimum of 5 feet from the south edge of the public sidewalk.
- d. Lighting of the sign must conform to the standards outlined in Article 7, Chapter 18, Exterior Lighting Standards for Illuminated Signs, at all times.

Mr. Barrow made a motion to approve ZB 2019-04 (V) with the staff recommended conditions. Rev. Martin seconded the motion. The motion passed, unanimously, 3-0.

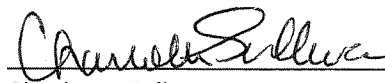
**Other Business**

**Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 1st day of May, 2019.

  
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Jim Martin, Chairman

  
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Charlotte Sullivan, Secretary