

## MINUTES

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

May 3, 2023

#### **Members Present**

Jim Martin  
Bill Carson  
Ashley Zarse  
Joe Abban

Chairman  
Vice Chairman  
Secretary  
Member

#### **Not Present**

Brian Alsip

Member

#### **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**

Bill Carson made a motion to approve the April 5, 2023 minutes. Ashley Zarse seconded. The motion passed unanimously, 4-0.

#### **Swearing In**

Lynn Gray swore en masse anyone planning to speak.

#### **Old Business**

None.

#### **New Business**

**ZB-23-2 (V) – Planker Storage** – Alex Getchell introduced this developmental standards variance request at 1661 Amy Lane. They are proposing a mini-warehouse self-storage facility. It is on the south side of Amy Lane, north of the retention pond on the property. They have gone before the Technical Review Committee. They are proposing 15,600 square feet of actual mini-warehouse storage space. It is a permitted use. They are also proposing a little over 22,000 square feet of hard surface area including all parking spaces and interior drives. According to the ordinance, they are required to provide the equivalent of five percent of the paved surface area set aside for interior parking lot landscaping islands, which would be 1115 square feet. The islands are required to be a minimum of 300 square feet each and each to have a minimum of one tree. For this project, the result would be four required trees. They

requested no interior parking lot landscaping islands or trees to be required. The petitioner committed to six additional trees located elsewhere on the site as part of their request. The property is zoned IL (Industrial: Light). The Comprehensive Plan Land Use plan calls for Light Industrial uses. They proposed all their trees for the north end of the property.

Marty Spees from Northpoint Engineering and Surveying spoke on behalf of the petitioner. Providing islands within the development would be prohibitive for any vehicles, most likely moving type vehicles, for their turning movements along with ingress and egress up and down the aisles.

- a. General Welfare: They don't believe their project will be injurious.
- b. Adjacent Property: They don't believe it will cause any impact to neighbors.
- c. Practical Difficulty: The interior landscape islands would be prohibitive for traffic ingress and egress.

Mr. Spees expressed the petitioner's acceptance of staff's three recommended conditions in the staff report.

Chairman Martin opened the public hearing by asking for anyone wishing to speak for or against the request; there were no respondents and the public hearing was closed. The Board had no questions.

Chairman Martin requested staff's recommendation. Mr. Getchell provided staff's recommendation for approval with the conditions as outlined in the staff report. Mr. Getchell stated he spoke to a staff arborist in the engineering department since the petitioner committed to adding six additional trees instead of four. The arborist advised only the four additional trees with a lesser number of Honey Locusts.

- A. In lieu of four interior parking lot landscaping trees, four additional trees must be provided on-site, for a total of 13 trees:
  1. A maximum of three (3) Honey Locust trees;
  2. Maple and Basswood species limited to five (5) trees each;
  3. Alternate species plantings on-site to reduce potential for disease infestation.

Mr. Carson moved to approve with the conditions recommended by staff. Joe Abban seconded the motion. The motion passed unanimously, 4-0.

**ZB-23-3 (V) – Pet Elves, Inc.** – Mr. Getchell introduced this Developmental Standards Variance request at 169 East Jefferson Street. Their request was to allow for a mural to be painted on the east side of the building. It is adjacent to a private alley or entryway between Pet Elves and the funeral home adjacent. The mural is to be 10' high and 45' wide. A professional artist has been contracted. They were awarded a \$10,000 grant from the Indiana Destination Development Corporation. Murals are considered to be a subtype of a wall sign in the Franklin Zoning Ordinance. Mural content is not regulated no matter the size. The content of this mural has been excluded as part of the BZA submittal as requested by staff. This avoids any perception of approval or denial based on mural content. The request is for the designated wall and mural size alone. If approved by the BZA, the request would then go before the Public Art Advisory Commission for review. The property zoning is MXD (Mixed Use: Downtown Center) and the Comprehensive Plan Land Use Plan calls for the area to be downtown uses. The summary of the three development standards variance requests is to allow a mural painted on the east facing exterior wall, and to be permitted in addition to the signage allowance for the property. The three variance

requests are: 1) To increase the number of signs, 2) To increase the maximum area of a wall sign limited in the downtown, and 3) To increase the maximum total signage area for the property.

Lulu Hurtado-Potter presented on behalf of Pet Elves, Inc. She believes they are the only entity in Johnson County awarded an IDDC grant. She enumerated the reasons they believe their project to be important.

1. The project aligns with the Public Art Advisory Commission's mission. They want to be considered part of the cultural arts initiative in both Franklin and the state of Indiana.
2. They believe the project to support alley activation though it is a private alley.
3. They believe their project supports the City of Franklin in the larger map of the arts in central Indiana because this is the third project supported by the IDDC.

Ms. Hurtado-Potter went on to address the decision criteria.

1. General Welfare: They don't believe their project to be injurious or present any threat. It is a mural of subtle colors and promotes inclusion and kindness.
2. Adjacent Property: The mural has the potential to increase the visibility of the area.
3. Practical Difficulty: The current city acceptable dimensions prohibit a large mural. The mural will contain a IDDC sign as part of the design.

Chairman Martin opened the public hearing by asking for anyone wishing to speak for or against the request; there were no respondents and the public hearing was closed. The Board had no questions.

Chairman Martin requested staff's recommendation. Mr. Getchell provided staff's recommendation for approval with the conditions as outlined in the staff report:

- 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 Jessen Funeral Home on the closure times and dates, if necessary, of the private alley/drive prior to starting work on the painting of the mural.
- f. The mural must be completed within ninety (90) days of the start of painting.
- 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 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.

Conditions were acceptable to petitioner. Mr. Carson moved to approve the request with the conditions recommended by staff. Ms. Zarse seconded. The motion passed unanimously, 4-0.

**ZB-23-4 (V) – Johnson County Public Library** – Mr. Getchell presented this Developmental Standards Variance request by the Johnson County Community Foundation in coordination with the Johnson County Public Library. The building is at 439 South State Street. It is at the Franklin branch of the public library where South Street tees into Branigin Boulevard/State Street. The building is the book barn just north of the library. They are proposing a mural on the north, west and south facing sides of the building. All together the mural would be approximately 1400 square feet in area. It would be part of the Johnson County Community Foundation Color the County mural program. The art is designed by the community and selected by their mural committee and also painted by the community. Murals are a subtype of the wall sign in the zoning ordinance. It would also be subject to the Public Art Advisory Commission. In the past every mural that has come before the board has been in the MXD (Mixed Use: Downtown Center) zoning district. This is in the “I” (Industrial) district. It is on a front façade and on three sides of a building. Previously two sides has been the maximum and that was with the Benjamin Franklin and kites mural. The Comprehensive Plan calls for the area to be an institutional center. The detailed variance request is to allow a mural to be painted on the north, west and south facing exterior walls approximately 1400 square feet in size and for the mural to be permitted in addition to the signage allowance for the property. There will potentially be two murals. The north and west could be one mural and the south a second mural.

Kim Kasting with Johnson County Community Foundation presented. She began with an overview of the Color the County program. She pointed out that all adjacent properties are institutions that support art in the community. It would also further the mission of the Public Art Advisory Commission’s regarding the establishment of a cultural arts district in downtown Franklin. Ms. Kasting went on to specifically address the decision criteria, as follows:

1. General Welfare: It enhances the community and makes it more vibrant.
2. Adjacent Property: It will only improve.
3. Practical Difficulty: Without the variance, they cannot complete the proposed mural and would be forced to do it at another location in the county.

Chairman Martin opened the public hearing by asking for anyone wishing to speak for or against the request; there were no respondents and the public hearing was closed. The Board had no questions.

Chairman Martin requested staff’s recommendation. Mr. Getchell offered staff’s recommendation that if the Board found evidence to approve the variance requests, staff recommended the following conditions:

- a. Approval is limited to the (Board specified façades; North – West – South) as depicted on the Color the County Mural Program flyer submitted with this request.
- b. 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.
- c. 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.
- d. Designs must not include nudity, suggestive poses, hate speech or imagery that any group might find obscene, offensive or morally shocking.
- e. 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.
- f. The mural must be completed within ninety (90) days of the start of painting.
- 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 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.

Conditions were acceptable to the petitioner. Ms. Minton gave clarification for why the request for the mural on three façades. Drive patterns made highest visibility of the three requested façades. The north and west will be a cohesive design and the south façade a separate design. Ms. Zarse asked the petitioner their reaction to a mural on just the north and west façades. Ms. Kasting stated their preference to do all three façades due to high visibility and the plainness of the current building.

Mr. Carson made a motion to approve the request for all three façades and with staff's recommended conditions. Ms. Zarse seconded. The motion passed unanimously, 4-0.

**ZB-23-5 (SE/V) – 1481 E Jefferson St.** – Mr. Getchell introduced these Special Exception and Developmental Standards Variance requests. The property is located on the south side of Jefferson Street just west of Carrollwood Meadows, east of Dawn Drive. Petitioner Kenneth Austin was proposing an in-ground swimming pool and an accompanying pool house. The pool house meets the definition of an accessory dwelling unit due to separate entry from the home and having a kitchenette, full bathroom and living area. It has approximately 466 square feet of living space. The building in total is 512 square feet with an exterior-entry storage space. The property is zoned RSN (Residential: Suburban Neighborhood) and the Comprehensive Plan calls for the area to be Large Lot Suburban Residential. The Special Exception use is to allow an accessory dwelling use in the RSN (Residential: Suburban Neighborhood) district. The Development Standards Variance is to allow the accessory dwelling or pool house to be located on the ground floor of an accessory structure. The way the ordinance is worded, accessory dwellings, when in a detached accessory structure, they are supposed to be on the second level. They can be attached to the primary structure and be on the ground level.

Petitioner, Mr. Austin, stated that the pool house will not have a stove in it. It is for private use only and will not be used as a rental. It will be less than 1000 square feet on a concrete pad. The building will be 32' x 16'. Mr. Austin reviewed the decision criteria for the special exception and the development standards variance requests, as follows:

**Special Exception:**

1. General Welfare: It will not be injurious. Mr. Austin mailed out 18 letters to his neighbors.
2. Development Standards: Mr. Getchell reported that this structure meets all development standards with the exception of the living area being on the second floor. It will not be taller than the home, so it will not be injurious to the neighbors' view.
3. Ordinance Intent: There is plenty of existing parking. Mr. Austin has six spaces in his driveway. There is street parking if needed. Ms. Gray verified that the proposed structure is residential and associated with the Austin residential property so meets with both the ordinance and comprehensive plan.

**Development Standard Variance:**

1. General Welfare: It will not be injurious to the community. Mr. Austin believed it will blend in nicely with the neighbors who have pools and pool houses. He stated the reason for his appearance before BZA was to determine if he would put a shower in the pool house. Mr. Getchell clarified that when a bathroom is added to an accessory structure, if it contains a sink, toilet and shower, it is considered a full bathroom. Depending on the rest of the structure, it

technically meets the definition of a dwelling because it has bathing facilities. If just a half bathroom with toilet and sink only, it does not meet the standard of a separate dwelling unit. This is what requires the special exception. Ms. Gray added the concern of the city that structures with kitchen and bathing facilities often turn in to rental units. Mr. Austin indicated that not to be their intent of this facility, and there is a condition that it will not be used as a short or long-term rental.

2. Adjacent Property: Eighteen of Mr. Austin's neighbors have received letters and several communicated their approval to him. They will not be in any easements. It will be set back 7.5' from the property line.
3. Practical Difficulty:

Chairman Martin opened the public hearing by asking for anyone wishing to speak for or against the request; there were no respondents and the public hearing was closed.

Mr. Carson asked if there will be a privacy fence or other means to protect against public access to the pool for safety reasons. Mr. Austin confirmed that they have a fence currently, and the pool will have an automatic cover.

Chairman Martin requested staff's recommendation. Mr. Getchell offered staff's recommendation for approval of the Special Exception request with the following conditions:

- a. Special Exception approval is for a single accessory dwelling unit (to be used as a pool house) and runs with the subject property.
- b. The accessory dwelling (pool house) shall not be offered for short or long term rental.
- c. Expansions to the accessory dwelling unit living area square footage shall be prohibited beyond 512 square feet.
- d. A minimum of three off-street paved parking spaces are required to be provided on-site.
- e. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

Mr. Getchell explained that the reason for condition "d" is that any time a special exception or use variance is approved by the board, the board is required to say how many parking spaces are required on the property.

Ms. Gray advised adding the voluntary condition guaranteeing no stove in the structure as condition "f". Mr. Austin communicated acceptance of all proposed conditions.

Mr. Carson made a motion for approval of the special exception request with conditions "a.-f." Ms. Zarse seconded. The motion passed unanimously, 4-0.

Staff recommended approval of the Developmental Standards Variance with conditions.

- A. Variance approval is for a single accessory dwelling unit (to be used as a pool house) on the ground floor of the detached accessory structure that is 32' x 16' in size.
- B. The accessory dwelling (pool house) shall not be offered for short or long term rental.
- C. Expansions to the accessory dwelling unit living area square footage shall be prohibited beyond 512 square feet.
- D. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

Ms. Zarse made a motion for approval with conditions. Mr. Carson seconded. Passed unanimously, 4-0.

**ZB-23-6 (SE/V) – DF Property Holdings, LLC** – Mr. Getchell presented these Special Exception and Development Standards Variance requests. The property is a 3601 N Morton Street. It is just north of the Koenig Equipment site located on Sloane Drive where Firehouse 23 is located. It is on the east side of US31. It is approximately 21.17 acres. The petitioners are proposing a 312-unit multi-family apartment development. It would be a mix of one-, two- and three-bedroom units and a total of 13 three-story buildings with 24 units in each building. Two types of buildings are proposed. Five Type A buildings would include two- and three-bedroom units. There would be eight Type B buildings containing one- and two-bedroom units. They proposed a clubhouse, pool, playground, dog park and a maintenance building with assortment of accompanying amenities. The property is in the MXR (Mixed Use: Regional Center) zoning district. However, the petitioner is committed to applying and adhering to the RM (Residential: Multi-Family) development standards where they are more restrictive, for example, the building setback lines and buffer yard requirements. They request that approval run with the property and not petitioner. The Comprehensive Plan calls for the area to be a Community Activity Center. The special exception use is to allow a multi-family dwelling use, which is more than two dwelling units, as a primary use in the MXR (Mixed Use: Regional Center) zoning district. The first development standards variance is to allow more than one primary structure in the MXR (Mixed Use: Regional Center) zoning district. In the RM (Residential: Multi-Family) zoning district, there is no limit. The second variance request from the Gateway Overlay District is to allow the main entrance of the primary structures to not face the public right-of-way of the highest thoroughfare plan road classification. In this case, the highest classified road would be US31/North Morton Street. They are requesting not all the front doors of all 13 units be required to face US 31. Instead they would be facing the interior parking lots and road network. Petitioner has submitted a Letter of Intent and written Findings of Fact for the special exception and two variances. Ms. Gray asked what impact the variance will have on the Gateway Overlay district. Mr. Getchell explained that the Gateway Overlay is a higher architectural standard. Their requested orientation of the building main entrances is more for a single building rather than a collection of buildings.

Attorney Eric Prime with Van Valer Law Firm represented DF Property Holdings, LLC. He was accompanied by Clayton Pace and Jerry Talley from Denton Floyd. Also present were economic consultant Evan Shine from Wheatley, Greg Ilko and Charlie Maddox from CrossRoad and property owner Tom Thompson.

Mr. Prime explained the basis for their appearance before BZA with a special exception as opposed to the rezoning process for the entire property. He also reiterated their commitment to the higher zoning standards where applicable and reviewed the project along with a company overview. He presented the concept plan via PowerPoint. The development will be built in phases. Additional amenities include a corn hole area, putt putt green and fire pit places. It will be a resort style area. There will be an EV charging station, bike repair area, public car wash available to residents and a dog wash station. Mr. Prime also highlighted economic impact of the development for the city.

Mr. Prime addressed the decision criteria for the special exception request, as follows:

1. General Welfare: It will not be injurious but actually enhance the general welfare of the city giving additional living space, allowing and attracting new residents to the city, providing excellent amenities for residents.
2. Development Standards: Petitioner stated that it will adhere to these, not only to what would have been required but increasing an additional level.
3. Ordinance Intent: The comprehensive plan contemplated multi-family in this area.

4. Comprehensive Plan: It was considered that this could be or might be used in a multi-family capacity.

He continued with the decision criteria for the first development standards request regarding additional primary structures.

1. General Welfare: It is better for everyone needing to get in to the area. It also helps with traffic flow.
2. Adjacent Property: With NSK and Koenig bordering and residential across the street with more industrial uses to the north, it fits in well as a transitional property.
3. Practical Difficulty: If required to build only one building, that would be a major practical difficulty.

He addressed the decision criteria for the second development standards request for orientation.

1. General Welfare: The building facings do not impact anyone's safety. It enhances by allowing traversing directly from parking lot in to the resident's building.
2. Adjacent Property: There would be no impact.
3. Practical Difficulty: If required to all face US 31, interior roadways and amenity orientation would be difficult.

Ms. Gray asked if these were market rate apartments, and Mr. Prime confirmed.

Chairman Martin opened the public hearing by asking for anyone wishing to speak for or against the request. Ms. Hurtado-Potter asked what the price of the apartments would be and how it would impact traffic flow. There were no other respondents and the public hearing was closed.

Mr. Prime did not know exact pricing, but they will be upper level units, and traffic flow will be managed with two entrances. He also maintained the likelihood in the future that the crossover will be signalized.

Mr. Abban added that with the US 31 project some crossovers will likely be removed. Ms. Gray summarized that INDOT is redoing all of US 31 in that area with construction to start in 2025. Greg Ilko from Crossroad Engineers reported that the crossover immediately to the north will be removed. The Sloan crossover will become emergency access only. There will also be some J-turns. Ms. Gray also reminded that as the property exists under current zoning, it would allow for a factory with three shifts of employees coming and going without any approval. Mr. Prime reiterated that the project will be built in phases. The Board had no further questions or comments.

Chairman Martin requested staff's recommendation. Mr. Getchell offered staff's recommendation for approval of the Special Exception request with the following conditions:

- A. Special Exception approval for a multi-family residential use runs with the property and not the petitioner.
- B. Special Exception approval for a multi-family residential use is limited to 312 dwelling units in 13 three-story structures.
  1. 1-bedroom units: 96 (+/- 16 units)
  2. 2-bedroom units: 156 (+/- 16 units)
  3. 3-bedroom units: 60 (+/- 16 units)
- C. Special Exception approval includes the proposed accessory uses, as follows:
  1. Clubhouse (community kitchen, gym, indoor mailroom, and community office)
  2. Inground swimming pool at clubhouse
  3. Playground
  4. Dog Park



5. Maintenance Building, including:
  - a. Community car wash bay
  - b. Bike repair station(s)
  - c. Pet spa cleaning station(s)
  - d. Electric Vehicle charging station(s)
- D. Special Exception approval includes the commitment to meet all development standards applicable to the RM: Residential, Multi-family zoning district that are more restrictive than the development standards of the MXR: Mixed-use, Regional Center district. Where the MXR district standards are more restrictive, the MXR standards are required to be met.
- E. The exterior façade material of all residential structures shall be brick for the entire first story and the entire height of the three-story main entrance towers, excluding windows & doors.
- F. All remaining portions of the exterior façade of all residential structures shall be fiber-cement lap siding, excluding windows, doors and balcony/stair railings.
- G. A minimum of two (2) off-street parking spaces are required to be provided per dwelling unit.
- H. A minimum of one (1.0) off-street parking space is required per 250 sq. ft. of management/sales office space.
- I. A minimum of one (1.0) off-street parking space is required for each employee on-site during the largest shift, and for each business vehicle stored on-site.
- J. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- K. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

Mr. Getchell stated, with regard to condition B, Mr. Prime asked for leniency of plus/minus 16 units for each of the one-, two- and three-bedroom units is to allow for slight changes to the design as they move forward so they would not need to return to BZA for any slight adjustments. Sixteen units represents five percent of the total number of units on the property. If a greater change was needed, they would need to return to BZA.

The conditions were acceptable to the petitioner. Ms. Gray stated that conditions running with the land requires that any other owner would still have to abide by all conditions.

Mr. Carson made a motion for approval of the special exception request with staff's recommended conditions. Ms. Zarse seconded. The motion passed unanimously, 4-0.

Mr. Getchell gave conditions for both development standards variance requests.

- A. Maximum of fourteen (14) primary structures (13 Apartment Structures; 1 Clubhouse); pool, playground equipment, maintenance building, dumpster enclosures, etc. are considered accessory structures.
- B. Development Standards variance approvals include the commitment to meet all development standards applicable to the RM: Residential, Multi-family zoning district that are more restrictive than the development standards of the MXR: Mixed-use, Regional Center district. Where the MXR district standards are more restrictive, the MXR standards are required to be met, with the exception of the variance approval for number of primary structures.
- C. The exterior façade material of all residential structures shall be brick for the entire first story and the entire height of the three-story main entrance towers, excluding windows & doors.
- D. All remaining portions of the exterior façade of all residential structures shall be fiber-cement lap siding, excluding windows, doors and balcony/stair railings.

Conditions were acceptable to the petitioner. Mr. Carson made a motion for approval of both development standards requests with staff's recommended conditions. Ms. Zarse seconded. The motion passed unanimously, 4-0.

**Other Business**

None.

**Adjournment:**

There being no further business, Ms. Zarse moved to adjourn. Mr. Carson seconded. Passed unanimously, 4-0.

Respectfully submitted this 3rd day of June, 2023.

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Jim Martin, Chairman

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Ashley Zarse, Secretary