



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › www.franklin.in.gov/planning

BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, AICP, Senior Planner
Date: July 7, 2023
Re: Cases ZB-23-7 (V) | 1209 Heritage Trail

REQUESTS:

Case ZB-23-7 (V)...Rob & Brandi Henderson. A petition by Rob & Brandi Henderson, a request for a Developmental Standards Variance from the City of Franklin Zoning Ordinance Article 7, Chapter 3, to allow an accessory structure to be located within a front yard, in the RSN: Residential, Suburban Neighborhood zoning district. The property is located at 1209 Heritage Trail.

PURPOSE OF STANDARD:

The “RSN”, Residential: Suburban Neighborhood zoning district is intended to ensure the continued viability of suburban-style lots in existence on the effective date of this Ordinance. This district should only be used to maintain established setbacks and standards in suburban neighborhoods.

ZONING:

Surrounding Zoning:

North: RSN: Residential, Suburban Neighborhood
South: RSN: Residential, Suburban Neighborhood
East: RSN: Residential, Suburban Neighborhood
West: RSN: Residential, Suburban Neighborhood

Surrounding Land Use:

North: Single-family Residential
South: Single-family Residential
East: Single-family Residential
West: Single-family Residential

CONSIDERATIONS:

Current & Proposed Use

1. Rob & Brandi Henderson, Petitioners and owners of the residence at 1209 Heritage Trail, a corner lot, with an inground swimming pool. Petitioners are seeking to add a small pool house (14’ x 22’) on their property. 6’ x 14’ would be enclosed half-bath & storage, the remaining 16’ x 12’ would be open-air covered porch. [See [Exhibit A: Building Plans](#) and [Exhibit B: Request Letter](#)]
2. Petitioners’ property is Lot 25 in the Heritage Trails subdivision (2003). The Heritage Trails subdivision includes a platted front yard building setback line of 25 feet for both front yards along Middleton Drive & Heritage Trail. Petitioners’ residence was actually constructed about 45 feet from the front property line/right-of-way line of Middleton Drive.

Accessory Structure in Front Yard

3. According to Article 7, Chapter 3, No accessory structure shall be permitted in any front yard, or within the required side and rear yard setbacks.
4. Variance: *Petitioner is requesting a variance to allow an accessory structure (pool house) to be located in the area designated as a front yard by the Zoning Ordinance.* In this case, the front yard area is all of the subject property which is closer to the right-of-way of Middleton Drive than the southwest foundation line of the existing residence. [[Exhibit A: Building Plans](#) and [Exhibit B: Request Letter](#)]

5. *Petitioner is requesting to encroach into the front yard area approximately 14 feet. Petitioner's residence is setback approximately 45 feet; the proposed pool house would be setback approximately 30 feet.*
6. Petitioners' residence was constructed with a side-load garage along Middleton Drive, and the front door oriented to face Heritage Trail. The house was built offset toward the northeast property line, and not built to the front setback lines, which inadvertently created a larger area where accessory structures were not permitted. [See [Exhibit A: Building Plans](#)]

Comprehensive Plan & Zoning Ordinance

7. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Large-Lot Suburban Residential. "Large-lot suburban residential areas are intended to include primarily single family detached residences. Other uses in large-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from small-lot suburban residential areas by their comparatively larger lot size and setbacks and lower density. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood."
8. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
9. 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.

(**The petitioner will need to address the Criteria for Decisions in their presentation**)

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:

In taking action on all special exception and 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 special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA – DEVELOPMENT STANDARDS 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:

Staff finds the approval of the proposed variance will not be injurious to the public health, safety, morals, or general welfare of the community. The proposed accessory structure location, albeit, in the "front yard," would be setback approximately 30 feet from the right-of-way of Middleton Drive, and would not encroach into any setback, nor crowd structures on adjacent properties. The proposed location of the pool house would be setback farther from the road than all other primary structures (residences) in the neighborhood along Middleton Drive. Moreover, the use of the structure is a permitted accessory use in the RSN zoning district.

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:

Staff finds the approval of the proposed variance will not adversely affect the use and value of adjacent properties. The proposed accessory structure location, albeit, in the “front yard,” would be setback approximately 30 feet from the right-of-way of Middleton Drive, and would not encroach into any setback, nor crowd structures on adjacent properties. The proposed location of the pool house would be setback farther from the road than all other primary structures (residences) in the neighborhood along Middleton Drive.

3. ***Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

Staff finds the strict application of the terms of the ordinance will result in practical difficulties at the subject property, as the residence is setback farther from the road (Middleton Drive) than the platted front building setback line, which creates a practical difficulty for locating accessory structures on-site. The strict application of the terms of the ordinance would, in effect, change the front setback requirement from 25 feet (platted) to 45 feet, and would prevent petitioners from practically utilizing a significant portion of the platted buildable area of the lot. Moreover, there is not another practical location for a pool house accessory structure to be constructed on-site.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE

Based on the written findings above, staff recommends **approval** of the petitions with the following conditions:

- 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. Critical structural elements, including walls, posts, and foundation, must not be located within the Drainage, Utility & Access easement located on the property. For purposes of clarification of this condition & approval, a concrete pad at grade, and the roof overhang are not considered critical structural elements.