



# 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](http://www.franklin.in.gov/planning)

## MINUTES

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

July 12, 2023

#### Members Present

Jim Martin	Chairman
Bill Carson	Vice Chairman
Ashley Zarse	Secretary
Brian Alsip	Member

#### Not Present

Joe Abban	Member
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#### Others Present

Alex Getchell	Senior Planner I
Lynn Gray	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 May 3, 2023 minutes with correction noted by Lynn Gray. Ashley Zarse seconded. The motion passed unanimously, 4-0.

#### Swearing In

Ms. Gray swore en masse anyone planning to speak.

#### Old Business

None.

#### New Business

**ZB-23-7 (V) – Henderson** – Alex Getchell introduced this developmental standards variance request for 1209 Heritage Trail. The petitioners were Rob and Brandi Henderson. The property is at the corner of Middleton Drive and Heritage Trail. Petitioner's proposal is to add a small pool house which is a permitted use. A portion of the accessory structure would be enclosed and measure 6'x14', and the remaining portion would be an open air covered porch measuring 16'x12'. The property is on a corner, so it has two front yards. Thus, the area between the house and the street is considered a front yard and accessory structures are not permitted to be located in that area. There is additionally a drainage utility and access easement on the property which constrains some of petitioner's options. The zoning for the property is RSN (Residential: Suburban Neighborhood) and the Comprehensive Plan classifies the

area as Large Lot, Suburban Residential. Petitioner's request is for a developmental standards variance from the zoning ordinance to allow for an accessory structure in the front yard. As submitted, Exhibit A was the site plan and building plans. Exhibit B was the request letter reviewing the decision criteria. The concrete slab for the pool house is proposed to overlap the easement slightly. There are no structural supports in the area. City of Franklin's Planning Department allows slabs, no structures, at grade in those areas.

Attorney Dustin Huddleston represented petitioners and introduced them. The property is near Webb and Needham behind the trail through town. The house began construction in 2017 and finished in 2018. It is a two-story, single family dwelling. The driveway and garage are located on Middleton Drive. The swimming pool was added in 2019. The Hendersons purchased the property in 2022. Their front door and mailbox are on the north side along Heritage Trails. The "side yard" is where the garage is and the "back yard" is where the pool is located. As the Hendersons would practically call it, the pool house is intended to go in their "back yard". The pool house will have a shingle roof with hardy plank cement siding and Shaker shingles. Existing trees, if they can be saved, will be relocated closer to the sidewalk with the pool house being placed where the trees are currently. Project cost is approximately \$70,000. Petitioners agreed to staff's two conditions. Notices have all been complied with and there have been no neighbor remonstrators in response. Decision criteria were addressed through a PowerPoint presentation and additionally Findings of Fact submitted with their application.

Mr. Martin held a public hearing with no response and no board members had any questions.

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

- a. All applicable permits and approvals shall be obtained prior to placement/construction, including but not limited to an Improvement Location Permit ("building permit"). Staff noted that the building permit had already been applied for.
- 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.

Mr. Carson made a motion for approval with conditions as outlined by staff. Ms. Zarse seconded. Passed unanimously by roll call vote, 4-0.

Rob Henderson expressed gratitude for the Board's decision and the very informative and helpful assistance of Senior Planner Mr. Getchell throughout the entire process.

**ZB-23-8 (SE) – DSM Trucking LLC** – Mr. Getchell introduced this special exception use request. DSM Trucking is located at 750 Hamilton Avenue. The property is located on the north side of Hamilton Avenue at the intersection with Overstreet Street. The property came before the Board in 2019 and received a special exception and use variance approval allowing inoperable vehicles associated with a towing company and an auto repair and body shop at the location. A fence variance was also received which no longer applies because the fence was built to code. The definition of trucking company is "an area and/or building or trucks and/or trailers are stored where loading and unloading does not primarily occur regularly, and it may include minor truck maintenance, scales and/or fuel." The petitioners moved some of the previous business located on this property up to Earlywood last year. A trucking company now leases the property. They received a violation letter from Franklin's Planning Department that it was not a permitted use. Petitioner indicated 20 business vehicles would be stored on site, presumably trucks and trailers. They have eight employees with hours of operation from 8am to 5pm. There are

legal, non-conforming site features primarily related to the stone parking and storage and drive aisles on the property. Also the typically required landscaping for a development. They can be maintained as they are. The property zoning is IG (Industrial: General) and the Comprehensive Plan Land Use Plan identifies this area as manufacturing.

Petitioner Tony Magaldi from DSM Trucking reviewed the decision criteria.

1. **General Welfare:** The 20 company vehicles are not on site or in and out 24 hours a day. Drivers arrive usually late Sunday evening or early Monday morning and are gone until Friday evening. Then home for the weekend and back out on the road. Five office staff currently are the only vehicles that will be in and out each day.
2. **Development Standards:** DSM does not plan to change anything. They will use the office area once Generations moves out. A shop will come in to service vehicles. They will not have fuel or scales on site. There will be no loading or unloading.
3. **Ordinance Intent:** Existing fence and structure will remain. It will hide parked trucks and trailers on the weekends. They haul only commercial product, no fuel or hazmat materials.
4. **Comprehensive Plan:** Petitioner has no plans to expand the gravel lot. All vehicles will be maintained and stored within the fenced in area. They will maintain grassy areas. There are 15-20 parking spaces in front of the building, and they currently have only five employees. Truck traffic will stay the same as it's always been. There is no increase.

Petitioner made a commitment that they would not have fuel or scales on site.

Mr. Martin opened the public hearing by asking if there was anyone wishing to speak for or against the request. Lynn King expressed that her questions and concerns were satisfactorily addressed in Mr. Magaldi's presentation. There being no further questions or comments, the public hearing was closed.

Mr. Carson asked how a property for manufacturing as specified in the Comprehensive Plan could be allowed to be used for a trucking company. Mr. Getchell explained that manufacturing is the title, and among the approved uses is "outdoor storage of materials and finished product". Ms. Gray also highlighted that it is an existing facility. Ms. Gray asked if there have been any complaints or violations at this property since its change. Mr. Getchell has not received any and does not believe Joanna Tennell has either, but he did not recall what specifically prompted the violation letter.

Brian Alsip asked what the violation had been. Mr. Getchell explained it was for operation of a trucking company use from the property without a special exception approval. Mr. Alsip followed up to ask what the variance issued to Grahams previously had been. Mr. Getchell responded to allow inoperable vehicle storage associated with the wrecking company. There was additionally a use variance for the auto body repair shop. Mr. Alsip asked staff if a trucking company had previously been granted permission at this location. Mr. Getchell confirmed that per his knowledge no previous permission had ever been given to operate a trucking company at the location. Mr. Alsip challenged the petitioner for asking for forgiveness instead of permission and wondered if there would be potential additional situations forthcoming over which the petitioner would go ahead and do it and ask for permission later.

Mr. Magaldi, petitioner, explained the reason they thought they could do it was because they were previously located directly across the street. They had been there for a little over a year and their landlord for several years. Two trucking companies were operating right across the street from each other. Thus, Mr. Magaldi explained that they never thought it would be a problem. He apologized for not having checked and assured they would definitely going forward.

Scott Graham spoke his apology as well, taking part of the responsibility for the situation. When his business was there, he maintained it was like a trucking business as they had 14 trucks and two semis on site.

Ms. Gray sought assurance that there would be no parking in the front gravel area. Mr. Graham added their future possible desire to bring the fence clear to the street and if so would be seeking a variance from the city. Mr. Magaldi stated that all company and employee vehicles will be parked behind the fence. DSM is a locally owned company. Mr. Magaldi expressed 100% agreement with staff's recommended conditions of approval.

Based on the written findings above, staff recommended approval with the following conditions (a.-h.):

- a. Special Exception approval for a Trucking Company use, as defined by the City of Franklin Zoning Ordinance, shall run with the petitioner, DSM Trucking LLC, at the subject property.
- b. An opaque fence must be maintained across the front of the property, separating the front property line from all storage areas on-site. The fence must be between six and eight feet in height and constructed no closer than 50 feet to Hamilton Ave. unless granted a future development standards variance approval by the BZA.
- c. All semi-trucks, trailers and vehicles larger than standard passenger vehicles must be parked, stored, and maintained behind the opaque fence.
- d. The property shall at all times be maintained and used only in clean, neat and well-groomed conditions, free from all natural and man-made debris, junk, rubbish, trash, weeds, and similar items, including, but not limited to, inoperable vehicles, gasoline, oil, flammables, chemicals, greases, and industrial waste.
- e. The legal non-conforming gravel/stone parking surface can be maintained but is not permitted to expand, without the approval of the Board of Zoning Appeals.
  1. Expansion of the stone and/or hard surface area within the fenced storage area shall require Site Development Plan Review and approval, if the expansion results in a greater than 25% or 2,000 square foot (whichever is greater) increase in the surface area of the storage area currently available on the property.
- f. A minimum of one parking space must be provided for each employee on the largest shift and for each business vehicle stored on-site.
- g. At least one parking space reserved for disabled persons must be provided, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.
- h. No fuel stations or scales will be on site.

Mr. Carson made a motion for approval with the recommended conditions, as amended. Ms. Zarse seconded. Passed unanimously by roll call vote, 4-0.

**Other Business**

None.


**Adjournment:**

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

Respectfully submitted this 6th day of September, 2023.

  
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Jim Martin, Chairman

Board of Zoning Appeals – July 12, 2023

  
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Ashley Zarse, Secretary