



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

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

June 5, 2024

Members Present

| | |
|----------------|---------------|
| Jim Martin | Chairman |
| Bill Carson | Vice Chairman |
| Clayton Black | Secretary |
| Clinton Nalley | Member |

Not Present

| | |
|-----------|--------|
| Joe Abban | Member |
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Others Present

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| 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 March 6, 2024 minutes with two typo corrections. Clayton Black seconded. The motion passed unanimously, 4-0.

Swearing In

City Attorney Lynn Gray swore en masse anyone planning to speak.

Old Business

None.

New Business

ZB-24-2 (V) – Redwood Apartments – Alex Getchell introduced the developmental standards request by Redwood USA, LLC. It is for a property off Upper Shelbyville Road, Hurricane Road and Eastview Drive to the east. The variance request is to allow for a Buffer Yard Type 3 with required setback to be reduced from a 25-foot setback down to zero feet or to not provide a setback at all while still providing the required Buffer Yard plantings for the area. In April 2023, tonight’s petitioner was also the petitioner for this property to be rezoned to RM (Residential: Multi-Family). The proposed development would have 156 units. They would all be single-story, an apartment community with four to eight units per building. Each unit would have at least 1,200 square feet, two bedrooms, two baths and two-car garages. The

buildings would have stone veneer accent areas, high quality vinyl horizontal lap siding or molded wood shaker style siding. The petitioners are providing all the required landscaping and would meet all the building setbacks required by the ordinance. Their request is for the Buffer Yard setback to be removed. Buffer Yards are required when conflicting zoning districts are adjacent to each other. This property, with the RM (Residential: Multi-Family) zoning, is adjacent to several Industrial zoning districts. The way the ordinance reads, whichever property is being developed is responsible for doing the Buffer Yard. Since the other properties are already developed prior to this zoning, the petitioner is required to do the Buffer Yard. The Comprehensive Plan calls for this area to be Business Development. It was rezoned in 2023 for Multi-Family. The petitioner provided a site plan or landscaping plan for the property submitted as Exhibit A. They plan to meet the 50-foot building setback line. They would also be required to provide an additional 25-foot Buffer Yard setback. They will provide all the required landscaping of the Buffer Yard and all the site interior and street trees. They will meet all the landscaping standards but requested a smaller area to allow for a larger building envelope. The petitioner also provided a statement of intent explaining their request and their response to the decision criteria. This was entered as Exhibit B.

Gregory Thurman, Acquisition Manager for Redwood, presented. He explained that the main reason they are making this request is due to the odd shape of the lot. To make effective and productive use of the area, it creates a hardship when there are back-to-back buffers. An early criteria of planning staff in initial discussions was to eliminate a second access road to Eastview. In order to do this, Hurricane Road was reviewed for the second exit needed, due to there being more than 100 units. The buffer requirement would eliminate the ability to do this. It would create a hardship by eliminating all the productive use of the land in the northwest area. Redwood will build, own and operate the site in to perpetuity. They have never sold one of their neighborhoods in over 33 years in business. They do not believe there is any harm to the neighbors as it will be screened like a park. They have planned for over one million dollars in landscaping. The petitioner requested his written submittal of their reasons in accordance with the statutory criteria be incorporated as part of his presentation.

Chairman Martin opened the public hearing.

Attorney Brian Alsip represented Hurricane Road Industrial Development, Inc., owner of the properties to the north on Eastview Drive, RPM Machinery at 3585 Eastview Drive and OC Repair at 1085 Eastview Drive. They are tenants that rent from Hurricane Road Industrial Development. The owner is Devon Clausen who retained Mr. Alsip to remonstrate against this case and the "no setback" request being made. Mr. Alsip maintained that buyers and owners of property are responsible for knowing the rules and setbacks when they acquire property and before they begin building on said properties. Knowing and honoring the setbacks is age old property law. As both these businesses are noisy, they are remonstrating to avoid future problems. OC Repair is a truck repair shop. RPM Machinery is an industrial facility. Both have noisy operations and want to avoid neighbors starting to submit noise complaints over something that has been in place for a long time. They want the setbacks to be honored to keep their facilities as far away from residential areas as possible. Mr. Alsip argued that the incoming development has the obligation to stay back. The screening was acknowledged, but the additional space was appealed for. The owner would like to see mounding or fencing which are also options. This objection is motivated by their desire to be good neighbors.

Mr. Thurman responded that the minimal decrease in the setback will not decrease the noise at all or protect the neighbors from noise concerns. Ms. Gray added her remembrance that when the previous rezoning went through on this property, before a different board, Mr. Alsip's clients were in attendance. Ms. Gray also sought Mr. Thurman's confirmation that Redwood will own the apartments and rent to individuals. Mr. Thurman stated that to be correct. There being no further interested parties, Mr. Martin closed the public hearing.

Mr. Black sought confirmation from Mr. Alsip that the only concern of the remonstrators was the noise and their desire to be good neighbors going forward. Mr. Alsip responded in the affirmative.

Chairman Martin requested staff's recommendation. Mr. Getchell presented that based on the written findings of the staff report, staff recommended approval of the petition with the following condition:

- a. Approval is limited to the reduction of the Buffer Yard Type 3 25-foot setback area to a 0-foot setback; all remaining Buffer Yard Type 3 requirements still apply & must be met.

The petitioner agreed to the condition. Mr. Carson moved for approval with staff's one condition. Mr. Black seconded. Passed unanimously by roll call vote, 4-0.

ZB-24-3 (V) – O'Mara Contractor, Inc. – Mr. Getchell introduced this case of five development standards variance requests for the property at 597 Johnson Avenue. The petitioner is O'Mara Contractor, Inc. The property is located off Johnson Avenue at the intersection with Terre Haute Street. There is an existing structure on site with an existing concrete pad in the rear. Additionally, there are some asphalt and gravel millings that have been brought to the site. The first variance is for the maximum lot coverage. The petitioner is requesting 88% lot coverage instead of the 75% required by ordinance. The second variance is for parking lot perimeter landscaping. They will provide the 10-foot setback requirement, but they are requesting to not provide any of the plantings. The third variance would be for parking lot interior landscaping. The petitioner is requesting to not provide any at all. The interior landscaping is landscaping islands in parking lots. Interior landscaping is to be five percent of the total parking lot area dedicated to landscaping. There is one tree required for every 300 feet in the required landscaping. Mr. Getchell estimated approximately 1100 square feet would be required so three required trees. The fourth variance is in regards to a Buffer Yard Type 3. The applicant proposes to provide a six-foot fence but would provide no setback or any plantings. The 25-foot setback is a requirement. The fence is one of three options. They could also choose to incorporate an undulating mound with landscaping or a row of evergreen trees. The petitioner is choosing to only provide a fence. Variance five is for outdoor storage area screening. Anywhere there is a storage area for materials or manufactured product stored outside, it is required to be screened with both a fence and plantings. The petitioner wants to use the same six-foot fence and no plantings on the outside. There are two options for plantings in an outdoor storage area, lower level shrubs every five feet or larger evergreen trees every 20 feet. The petitioner intends to provide the fence but no plantings.

Mr. Getchell continued, stating the proposal is for a contractor storage yard, which is a permitted use. They have not yet submitted for site plan development review. Submission and review by Technical Review Committee is required. Zoning Ordinance requirements and drainage would be considered at that time. Tonight's plans are conceptual, but the petitioner chose to begin with this request process to determine what the board is willing to accept. They propose to provide the street trees required by the Subdivision Control Ordinance. On this site a total of seven trees is required 10 feet from the right-of-way. The petitioner is providing the one required site interior tree. The property has single-family residential on all four sides. There are both legal conforming and legal non-conforming. Around the property on the north and west, across Terre Haute and across Johnson, are properties zoned RTN (Residential: Traditional Neighborhood) and are considered legal, conforming single-family properties. The residential to the east and south are considered legal, non-conforming as there were established prior to the city enacting IBD (Industrial: Business Development) in that area. The Buffer Yard is only required when it's adjacent to conflicting zoning districts. On the north and west sides of the property is where the Buffer Yard is required. The outdoor storage screening would be required around the entire outdoor storage area, so on all four sides. The Comprehensive Plan calls for Business Development in

this area. The petitioner provided both a site plan and Statement of Intent including their response to the decision criteria.

Craig Shireman of O'Mara presented. O'Mara works a lot for Franklin and Indiana American Water. They would like a centralized location to store some of the materials. Their variances are requested because of the smallness of the site. Ms. Gray pointed out that the decision criteria must be addressed for each of the five requests and advised that the petitioner might wish to elaborate to the board. The petitioner referenced their previously submitted information. Ms. Gray asked if he was standing on that submittal. The petitioner confirmed that he was.

Mr. Martin opened a public hearing. There being no respondents, the public hearing was closed.

Mr. Carson identified that the petitioner and he are high school classmates but have not had any interaction since high school. Mr. Carson asked if there is currently a contract to pave Johnson Avenue and if O'Mara has the contract. The petitioner did not know. Mr. Carson followed up with the conclusion that the purpose of this site would not be to support that project. The petitioner assured that it was not.

Chairman Martin requested staff's recommendation. Mr. Getchell presented that on the basis of the written findings in the staff report, staff recommended petitioner address why the requested variances are the least variance practical and necessary in order to develop and use the site, or if additional landscaping/buffer yard area could be provided along the north (Terre Haute St).

Ms. Gray asked if staff's recommendation was for denial on all five requests until more explanation was provided or just on those requests related to the buffering. Mr. Getchell responded that largely it would be all of them from the standpoint of practical difficulty without explanation for the inability to add a bit more.

Mr. Black suggested tabling the petition to give the petitioner time to address the decision criteria and provide more explanation.

Ms. Gray explained that the Board has to have evidence before it to support why a variance is necessary. She advised that the petitioner has presented no information as to why they cannot do some of these things such as tree plantings and screening. Maximizing their own lot is only to further their own interests as opposed to complying. The practical difficulty cannot be a self-imposed hardship for their monetary benefit.

Mr. Shireman stated O'Mara's engineer was scheduled to be in attendance but developed a conflict.

Mr. Carson stated the city's interest in cleaning up this general area. Paving Johnson Avenue and the sidewalks are in the future and likely something Franklin will ask O'Mara to consider. The petitioner was not against putting in some landscaping. He will speak with their team.

Mr. Black made a motion to table the petition until the next regularly scheduled meeting. There would be no new notice required. Mr. Carson seconded. The motion to continue, passed unanimously, 4-0.

Other Business

The July meeting was moved to July 10.

Adjournment:

There being no further business, a motion to adjourn was made by Mr. Carson and seconded by Mr. Black for adjournment. Passed unanimously, 4-0.

Respectfully submitted this 10th day of July, 2024.



Jim Martin, Chairman



Clayton Black, Secretary