

VILLAGE OF FRANKFORT PLAN COMMISSION MINUTES
November 13, 2008

CALL TO ORDER AND ROLL CALL

Chair Goldie called the Village of Frankfort Plan Commission meeting to order on November 13, 2008, at 6:30 p.m. Members Schumpp, Schwarz, Matlock, Matevich, Beeson, Chemers and Goldie were in attendance for roll call. Village Board liaison Heath, Sr. Planner Zach Brown and Planning Tech Tony Minette were present. Mayor Holland was present in the audience.

APPROVAL OF THE MINUTES (October 23, 2008)

Member Schwarz then made the motion (#1), seconded by member Matevich to approve the Plan Commission minutes for October 23, 2008 as presented. Ayes: Matevich Schumpp, Schwarz, Matlock, Beeson, Chemers and Goldie. Nays: None Motion carried.

WORKSHOP/PUBLIC HEARING – MCCOY VARIANCE

Public Hearing Request: Accessory structure setback variance from 10' to 5.7' along the southern property line and 10' to 4' along the eastern property line, and a building materials variance to permit the use of cedar siding in the construction of a shed in the rear yard of the property located at 151 Evergreen Drive, and variances for the following existing nonconforming conditions to bring the property into compliance with current ordinance requirements: lot width from 100' to 90', and lot area from 15,000 sq. ft. to 13,500 sq. ft.

Chair Goldie swore in all who wished to testify. Receipts of the registered letters were entered into the record.

Planning Tech Tony Minette presented the staff report noting that the applicant proposes to replace a previously existing shed, which was destroyed by the home explosion on Sycamore. Mr. Minette stated that the applicant proposes to construct the shed in the same location as the previous utilizing the existing concrete slab however noted that accessory structure setback variances would be required to accommodate its location and that an additional variance is required to accommodate the proposed building materials.

Commissioners questioned if the applicant was amenable to the suggested condition of constructing the shed in accordance with all applicable fire safety codes. The applicant noted that he was aware of the increased fire safety requirements and was amenable to the suggested condition of approval. Commissioners noted an awareness of several accessory structures in the area that did not meet the standards for setback or masonry. Chair Goldie questioned if there was any additional comment from the audience, there was none.

Member Matevich made the motion (#2), and seconded by member Schumpp to close the public hearing. Ayes: Matevich, Beeson, Schwarz, Schumpp, Matlock, Chemers and Goldie. Nays: None. Motion carried.

Commissioners discussed the variance requests noting that the proposed improvements would not increase the degree of nonconformity beyond that of the previous shed and noted the event leading to the sheds reconstruction.

The following Standards of Variance were presented, and the accepted findings were entered into the record.

Existing Non-Conforming Lot Conditions

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

The property was platted and developed prior to the adoption of the current zoning ordinance. Modifying the existing improvements is cost prohibitive. Modifying lot dimensions and area is prohibited by surrounding development.

2. *That the plight of the owner is due to a unique circumstances; and*

The property was platted and developed prior to the adoption of the current zoning ordinance.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The majority of the properties in the immediate area were platted and homes constructed prior to the adoption of the current zoning ordinance and as such exhibit similar non-conformities.

Accessory Structure Side Yard Setback

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Meeting the required setbacks would require the removal of existing mature vegetation and would render the existing slab useless.

2. *That the plight of the owner is due to a unique circumstances; and*

The current shed was damaged by a neighboring home explosion.

3. *That the variation, if granted, will not alter the essential character of the locality.*

Many accessory structures in the area maintain reduced setbacks.

First Floor Building Materials for an Accessory Structure

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Requiring accessory structures in this area to meet first floor masonry requirements is overly burdensome compared to investments in accessory structures in the area.

2. *That the plight of the owner is due to unique circumstances;*

The property is subject to building regulations designed to address new development. A masonry shed would conflict with the development pattern in the area.

3. *That the variation, if granted, will not alter the essential character of the locality.*

Many accessory structures in the area do not meet the first floor masonry requirement.

Member Schwarz made the motion (#3), and seconded by member Matevich to approve a variance for the existing conditions enumerated in the staff report to bring the property located at 151 Evergreen Dr. into compliance with current ordinance requirements, in accordance with the reviewed plans. Ayes: Schwarz, Schumpp, Matlock, Chemers Matevich, Beeson, and Goldie. Nays: None. Motion carried.

Member Chemers made the motion (#4), and seconded by member Schumpp to approve a variance for Accessory Structure Setback from 10' to 5.7' on the Southern property line for the property located at 151 Evergreen Dr., to permit construction of a 8.20' by 10.25' (84 sq. ft.) shed in the rear yard, in accordance with the reviewed plans and conditioned upon construction of the shed in accordance with all applicable fire safety codes. Ayes: Matevich, Beeson, Schwarz, Schumpp, Matlock, Chemers and Goldie. Nays: None. Motion carried.

Member Schwarz made the motion (#5), and seconded by member Matlock to approve a variance for Accessory Structure Setback from 10' to 4' on the Eastern property line for the property located at 151 Evergreen Dr, to permit construction of a 8.20' by 10.25' (84 sq. ft.) shed in the rear yard, in accordance with the reviewed plans. Ayes: Beeson, Matlock, Chemers, Matevich, Schwarz, Schumpp, and Goldie. Nays: None. Motion carried.

Member Schwarz made the motion (#6), and seconded by member Matlock to approve a variance for first floor building materials for the property located at 151 Evergreen Dr, to

permit the use of cedar siding on an 8.20' by 10.25' (84 sq. ft.) shed in the rear yard, in accordance with the reviewed plans. Ayes: Schumpp, Matlock, Chemers, Matevich, Beeson, Schwarz, and Goldie. Nays: None. Motion carried.

WORKSHOP/PUBLIC HEARING – FOSTER VARIANCE

Public Hearing Request: Building materials variance to permit the use of vinyl siding on their home at 616 Lincoln Lane; and variances for the following existing nonconforming conditions to bring the property into compliance with current ordinance requirements: lot width from 100' to 75', lot depth from 150' to 140' and lot area from 15,000 sq. ft. to 10,500 sq. ft.

Chair Goldie swore in all who wished to testify. Receipts of the registered letters were entered into the record.

Mr. Minette presented the staff report noting that the applicant requests a variance to permit the use of vinyl siding on his home located at 616 Lincoln Lane. Staff noted that the siding is partially installed on the home as work on the improvements began without a building permit.

The applicant's contractor Rene Malot Jr. was present and provided the Commission detailed information of the proposed vinyl product noting its increased insulation factor and long-term warranty. The Contractor stated that he was aware of several variances being granted in the immediate area permitting the use of vinyl siding. He also expressed his general concern for the Hardi-board siding product noting a shorter warranty term and increased maintenance requirements.

Neighbors George Radcliffe of 401 Hackberry and Lisa Adomo were present and expressed support for the proposed vinyl product noting a substantial improvement in the homes appearance. Mr. Radcliffe stated that the village should consider "grand-fathering" the older areas of town to permit the use of vinyl siding.

Member Chemers made the motion (#7), and seconded by member Matlock to close the public hearing. Ayes: Matevich, Beeson, Schwarz, Schumpp, Matlock, Chemers and Goldie. Nays: None. Motion carried.

Member Chemers stressed to the applicant's contractor the importance of obtaining proper building permits for all future projects. Commissioners discussed the proposed building material and noted an improvement in the home's appearance.

The following Standards of Variance were presented, and the accepted findings were entered into the record.

Existing Non-Conforming Lot Conditions

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

The property was platted and developed prior to the adoption of the current zoning ordinance. Modifying the exiting improvements is cost prohibitive and is prohibited by surrounding development.

2. *That the plight of the owner is due to a unique circumstances; and*

The property was platted and developed prior to the adoption of the current zoning ordinance.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The majority of the properties in the immediate area were platted and homes constructed prior to the adoption of the current zoning ordinance and as such exhibit similar non-conformities.

Building Materials

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

The existing home is constructed of non-masonry material. Modification of the structure to utilize first floor masonry would be cost prohibitive.

2. *That the plight of the owner is due to a unique circumstances; and*

The home was constructed prior to the current zoning ordinance and was not required to utilize first floor masonry.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The applicant's subdivision was platted and the majority of the homes were constructed prior to the adoption of current ordinance requirement, and as such is predominately constructed of non-masonry materials.

Member Schwarz made the motion (#8), and seconded by member Matevich to approve a variance for the existing conditions enumerated in the staff report to bring the property located at 616 Lincoln Lane into compliance with current ordinance requirements, in accordance with the reviewed plans. Ayes: Schwarz, Schumpp, Matlock, Chemers Matevich, Beeson, and Goldie. Nays: None. Motion carried.

Member Schwarz made the motion (#9), and seconded by member Matevich to approve a variance for first floor building materials for the property located at 616 Lincoln Lane, to permit the use of vinyl siding as a primary building material, in accordance with the reviewed plans. Ayes: Schumpp, Beeson, Matlock, Schwarz, Matevich, Chemers and Goldie. Nays: None. Motion carried.

WORKSHOP/PUBLIC HEARING –JOHNSON VARIANCE

Public Hearing Request: Variance of impervious lot coverage from 40% to 44.5% to accommodate a brick paver patio in the rear yard of the property located at 22550 Nature Creek Circle; and a variance for the existing nonconforming side yard setback from 10' to 9.75' to bring the property into compliance with ordinance requirements

Chair Goldie swore in all who wished to testify. Receipts of the registered letters were entered into the record.

Sr. Planner Brown presented the staff report noting the applicant's request for an impervious lot coverage variance from 40% to 44.5%. Mr. Brown explained that the issue came to light following an inspection by the Building and Zoning Department of a disturbance to an existing native landscape are located immediately west of the subject property. Staff noted that during this inspection it was discovered that the improvements within the applicants rear yard did not correspond to those issued for building permit.

The applicant's attorney John Antonopoulos was present and noted that the applicant is wheelchair bound and that removing an area of pavers to meet ordinance requirements would not only be costly but would limit the applicants ability to utilize his property.

Member Schwarz made the motion (#10), and seconded by member Chemers to close the public hearing. Ayes: Schumpp, Matlock, Beeson, Schwarz, Chemers, Matevich and Goldie. Nays: None. Motion carried.

Commissioners discussed the proposed variance noting that the plans submitted for building permit were unclear and that it is difficult to discern what improvements were proposed and in what location. Commissioners did note that the permit plans called out the word "pavers" in the general location of the paver patio. Mr. Brown noted that the existing improvements were reviewed and approved by the subdivision's architectural review committee.

Member Schwarz questioned if the disturbance to the native landscape area west of the subject property was being addressed. Mr. Brown noted that the contractors had been issued fines and were responsible for replanting the area.

The following Standards of Variance were presented, and the accepted findings were entered into the record.

Side Yard Setback

- 1. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

The existing home maintains a reduced side yard setback, and would be a substantial cost to relocate.

2. *That the plight of the owner is due to unique circumstances;*

The existing home permitted at a 10' setback however was adjusted approximately 3'' in the field thereby necessitating the need for the setback variance.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The 3'' encroachment is within the 6'' tolerance generally accepted in the field and as such will appear consistent with the surrounding area.

Impervious Lot Coverage

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Were the applicant required to meet the 40% impervious lot coverage a portion of the existing pavers would need to be removed making the project cost prohibitive.

2. *That the plight of the owner is due to unique circumstances;*

The extent and location of the improvements depicted on the plans submitted for building permit is unclear. The applicant contends that the existing improvements were covered by the approved building permit application.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The proposed paver patio is located in the rear yard of the subject property adjacent to permanent open space and as such visibility of the improvements will be limited.

Member Schwarz made the motion (#11), and seconded by member Beeson to approve a side yard setback variance along the northern property line from 10' to 9.75' for the property located at 22550 Nature Creek Circle in accordance with the reviewed plans. Ayes: Schumpp, Beeson, Matlock, Schwarz, Matevich, Chemers and Goldie. Nays: None. Motion carried.

Member Schwarz made the motion (#12), and seconded by member Chemers to approve an impervious lot coverage variance from 40% to 44.5% for the property located at 22550 Nature Creek Circle in accordance with the reviewed plans. Ayes: Chemers, Beeson, Schwarz, Matlock, Schumpp, Matevich, and Goldie. Nays: None. Motion carried.

WORKSHOP/PUBLIC HEARING –GREAT AMERICAN BAGEL

Public Hearing Request: Special Use for extended hours of operation to permit the Great American Bagel carryout facility located at 9326 Corsair Road, to open at 6:00 a.m.

Chair Goldie swore in all who wished to testify. Receipts of the registered letters were entered into the record.

Sr. Planner Brown presented the staff report recalling that in September the Commission reviewed and recommended approval of a special use for a carryout restaurant within the existing Great American Bagel warehouse facility located on Corsair Road. Mr. Brown noted that during the previous meeting the applicant indicated that he intended to operate the restaurant portion of his business starting at 6:00 am and at that time was informed that special use approval would be required.

The applicant Wayne Flatley was present and stated that opening at 6:00 am would allow him to provide services to those customers who begin working within the industrial park at 7:00 am.

Member Schwarz made the motion (#13), and seconded by member Chemers to close the public hearing. Ayes: Beeson, Schwarz, Matevich, Schumpp, Matlock, Chemers and Goldie. Nays: None. Motion carried.

Commissioners questioned the operating hours of the warehouse portion of the business. The applicant indicated that the warehouse begins operating at 4:00 am. Staff inquired if the applicant had received a previous special use approval to permit operation at 4:00 am, which the applicant was unaware. Staff agreed to investigate the matter.

Member Chemers made the motion (#14), and seconded by member Beeson to approve a special use for extended hours of operation to permit the Great American Bagel Facility located at 9326 Corsair Road to open at 6:00 am in accordance with the reviewed plans. Ayes: Matevich, Schumpp, Schwarz, Matlock, Chemers, Beeson and Goldie. Nays: None. Motion carried.

WORKSHOP/PUBLIC HEARING –RYAN VARIANCE

Public Hearing Request: Variances of a side yard setback from 20' to 7,' rear yard setback variance from 30' to 28' and a variance to allow two curb cuts for a property with less than 200 feet of frontage for the property located at 22771 Citation Road.

Chair Goldie swore in all who wished to testify. Receipts of the registered letters were entered into the record.

Mr. Minette presented the staff report noting that building permits were issued for the property on July 31, 2008. Following a site visit by the Department of Building and

Zoning it was discovered that the permitted improvements did not meet the required side yard setback. Upon further investigation it was also discovered that variances were required for rear yard setback and number of curb cuts.

The applicant, Michael Ryan was present and noted that the foundation and a portion of the building were already constructed stating that the setbacks and number of curb cuts were previously reviewed and approved with his building permit. The applicant stated that he was made aware of the required variances only after construction had begun.

Member Matevich made the motion (#15), and seconded by member Schwarz to close the public hearing. Ayes: Chemers, Schwarz, Beeson, Schumpp, Matlock, Matevich and Goldie. Nays: None. Motion carried.

Commissioners discussed the proposed variances and questioned the issuance of building permits, noting that the improvements requiring variance approval were already installed. Members questioned if increased fire safety standards applied to loading docks. Staff explained that there is no structure associated with the proposed dock and that the dock improvements are limited to a recessed concrete drive and pad.

The following Standards of Variance were presented, and the accepted findings were entered into the record.

Two points of Access

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Two points of access are commonplace within the adjacent Airport Industrial Park. The two points of access were permitted and are existing. Removal of one access point would be cost prohibitive.

2. *That the plight of the owner is due to a unique circumstances; and*

The property is located within an industrial area which is predominately developed with two points of access. Two points of access were permitted under the initial building permit.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The majority of industrial lots within the immediate area are developed with two points of access.

Rear Yard Setback

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

To meet the rear yard setback requirement would require the relocation or removal of the existing building, which is cost prohibitive

2. *That the plight of the owner is due to unique circumstances;*

The building was permitted for construction at a reduced setback and was constructed as such.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The degree of the proposed variation is limited (2'). The subject property is located immediately west of an open field.

Side Yard Setback

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

To meet the side yard setback requirement would necessitate the removal of the existing loading dock, reducing the usability of the building for the building owner.

2. *That the plight of the owner is due to unique circumstances;*

The location of the loading dock was permitted for construction and was already constructed.

3. *That the variation, if granted, will not alter the essential character of the locality.*

Twenty foot setbacks are required in the I1 district to insure proper building separation. The existing building maintains a 20' setback. The loading dock is recessed below grade giving the appearance that the required setback is maintained.

Member Schwarz made the motion (#16), and seconded by member Schumpp to approve a variance to allow two points of access for a property with less than 200' feet of frontage for the property located at 22771 Citation Rd, in accordance with the reviewed plans. Ayes: Matlock, Chemers, Schumpp, Schwarz, Matevich, Beeson and Goldie. Nays: None. Motion carried.

Member Schwarz made the motion (#17), and seconded by member Schumpp to approve a rear yard setback variance from 30' to 28' for the property located at 22771 Citation Road, in accordance with the reviewed plans. Ayes: Schumpp, Matevich, Schwarz, Matlock, Beeson, Chemers and Goldie. Nays: None. Motion carried.

Member Schumpp made the motion (#18), and seconded by member Chemers to approve a side yard setback variance from 20' to 7' for the property located at 22771 Citation Road, in accordance with the reviewed plans. Ayes: Schwarz, Beeson, Matlock, Schumpp, Chemers, Matevich and Goldie. Nays: None. Motion carried.

PUBLIC HEARING –ORDINANCE UPDATE

Public Hearing Request: Revision of the Village of Frankfort Zoning Ordinance, Article 1, Section C, Part A.f. relating to lot dimensions and side yard setbacks within the R2 zoning district.

Sr. Planner Brown presented the staff report for an amendment to the Zoning Ordinance to address lot dimensions and side yard setbacks within the R2 zoning district and the expiration of a provision of the zoning ordinance which permitted lots platted under the provisions of the Bi-centennial zoning ordinance to remain as legal nonconforming until September 2008. Mr. Brown noted that this issue was discussed at a workshop meeting on October 23, 2008 and the discussions from the workshop incorporated into the modification being presented for the Commission's consideration. Staff noted that as requested the subject modification will exempt the I1 and I2 zoning districts.

Member Chemers made the motion (#19), and seconded by member Schwarz to close the public hearing. Ayes: Beeson, Chemers, Schumpp, Matevich, Matlock, Schwarz and Goldie. Nays: None. Motion carried.

Commissioners favored the proposed modification noting that it would remove the need for variances presently necessary when owners wish to improve their property under the standards by which they were developed and streamline the approval process for the residents of the village.

Member Beeson made the motion (#20), and seconded by member Matlock to approve the proposed amendment to Article 1, Section C, Part A.f of the Village of Frankfort Zoning Ordinance as proposed. Ayes: Matlock, Schwarz, Beeson, Schumpp, Chemers, Matevich and Goldie. Nays: None. Motion carried.

OTHER BUSINESS

Sr. Planner Brown noted that staff continues to investigate the issue of crematoria and is in the process of drafting an ordinance amendment to be presented for the Commission's consideration.

ADJOURNMENT

Member Matlock made the motion (#21), seconded by member Schwarz to adjourn the November 13, 2008 meeting of the Plan Commission at 7:35 p.m. Ayes: Unanimous voice vote. Nays: None. Motion carried.

APPROVED December 11, 2008

As Presented _____

As Amended _____

_____/S/_____, Chair

_____/s/_____, Secretary