

**CITY OF FRANKFORT**  
**Board of Zoning Appeals**  
January 13, 2021

The Frankfort City Board of Zoning Appeals met at a Regular Meeting on January 13, 2021, in the Council Chambers, 301 E. Clinton Street, Frankfort, Indiana at 5:30 p.m.

President Kevin Myers was present and called meeting to order. Upon roll call, the following members were present: Mike Nichols, David Hussey, Isac Chavez, Sam Payne and Kevin Myers. Also present: staff members Don Stock, Zoning Administrator and Susan Palmer, Secretary. President Myers welcomed two new members, Sam Payne and Mike Nichols to the board. Both new members are replacing very longtime members Richard Greeno and Don Gilmore, who have both passed away.

MINUTES: Minutes of October 14, 2020, meeting were presented. Isac Chavez made a motion to approve minutes as presented. David Hussey seconded the motion. Upon roll call vote, three “ayes” were recorded David Hussey, Isac Chavez and Kevin Myers. Two abstained, Sam Payne and Mike Nichols. Motion carried and minutes were approved.

ELECTION OF OFFICERS: Myers opened the nominations for President. Mike Nichols nominated Kevin Myers for President and David Hussey seconded the motion. With no other nominations, nominations were closed. Upon roll call vote, five “ayes” were recorded. Motion carried. Kevin Myers is 2021 President. President Myers opened the nominations for Vice President. Isac Chavez nominated himself to be Vice President, Mike Nichols seconded the motion. With no other nominations, nominations closed. Upon roll call vote, five “ayes” were recorded. Motion carried. Isac Chavez is 2021 Vice President.

PUBLIC HEARING: Docket #2020-015 Application #01312 P & K Rental, LLC has petitioned the board for a Variance of Developmental Standards. Myers called on Don Stock to address the board. Stock welcomed Sam Payne and Mike Nichols to the board. As in the staff report Stock stated the request is to allow a fence of more than 6’ to be installed in a Roadside Business District, to allow a fence of more than 42” within 75’ of the Magnolia Avenue right of way, also to allow the setback to be less than the required 75’ setback for a fence over 42”. Stock explained the lots in question are vacant lots north of 1403 Magnolia Avenue and all three variances are as a one vote request. The property is Roadside Business and located on lots 12 and 13 in Block P in Woodside Addition. The need for the variance arises because the 8’ fence is not permitted in a Roadside Business District, and no fence of more than 42” may be installed within 75’ of a right of way and because the fence will impede on the 75’ required setback. According to Chapter 155.013 of the Frankfort City Ordinance, fences are permitted as accessory structures in any district and require an Improvement Location Permit. The height of all fences will be measured from ground level and must meet the following standards: In residential or business districts, no fence or wall of more than six feet in height may be placed, built or installed in the side and rear yards of any lot. No fence or wall of more than 42 inches may be placed, built or installed within 25 feet of any street right-of-way in any Residential District or LB District nor within 75 feet of any street right-of-way in the RB District. All fences and walls must be in compliance with visual clearance area requirements of this

chapter. A variance may be approved under this section if, after a public hearing, the board makes findings of fact in writing. Stock went on to the findings in his staff report.

**The approval will not be injurious to the public health, safety, morals, and general welfare of the community**

This fence will be placed to protect his property and storage containers that lie within the fenced area. In the past, neighbors have walked through his property going to the liquor store, so with the installation of this fence it will lessen the injury risk of wandering citizens coming on to the property where the fencing material is stored. The proposed fence will be installed with 48" panels beginning at the edge of the Magnolia Ave right-of-way, to be verified by Building Services at start of construction. At that point, the 48" sections of fencing will begin and continue east for approximately 25 feet. From that point, 8 foot sections will begin and run the rest of the property length. The added height of the 48" panels should not cause any visual clearance or safety issues. For these reasons, it will not be injurious to the public health, safety, morals, and general welfare of the community.

**The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

The surrounding areas are zoned as follows: property to the north and east is zoned Local Business, property to the south is zoned B Residential, and property to the west is zoned Roadside Business. Surrounding property includes vacant land, businesses, homes and land also owned by petitioner. The 48" sections near the front of the property will provide a few more inches of security for the material inside. The 8 foot fence sections will hide several storage containers from the neighbor's site line, proving to be more helpful than hindering. Since fences are allowed in all districts so long as they're installed properly and in compliance with the ordinance, it should not adversely affect adjacent properties.

**The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

By ordinance, no fence over 42 inches in height may be built or installed within 75 feet of any right-of-way for the Roadside Business district. This fence will be 48 inches tall for approximately 25 feet, from there to the rear fence line will be 8 foot tall sections. According to the ordinance, after the 75 foot setback has been met, the fence may be installed at 6 feet tall. If the ordinance is strictly applied, he will be unable to adequately enclose most of his lot due to the height of the storage containers. Strict application of the zoning ordinance will result in practical difficulties in the use of the property since a traditional 6 foot fence would not provide sufficient vertical coverage of the storage containers and because the 75 foot setback would require him to set the 8 foot sections over halfway back on his lot which would defeat the purpose of the taller fencing. By using these findings the staff recommendation is to approve. Stock explained the board could adopt the staff findings and approve the variance or if they choose to deny the variance by adopting their own findings. Stock took questions. Sam Payne questioned if it was marked from the centerline of the street. Don said yes. Nichols questioned the type of fence they are installing and if they could put a solid fence. Don stated yes and referred the board to the pictures attached to the staff report.

Myers called for any other questions for Don, hearing none, Myers called on the petitioner to speak. Ryan Bell addressed the board and talked briefly about the growth of their

business and the need for the fence and took questions. Jay Moore attorney for P & K added that this all started back in 2018 when the City Plan Commission recommended to and the City Council approved the rezoning of these two lots to Roadside Business, so these type of uses could be done in the future. Jay added in the future his client may return asking for a special exception to build a building at this location. Myers called for anyone else to speak. Kelvin Lane, co-owner of 1401 Magnolia spoke to the board and like the Bell's, his family has owned property adjacent to the Bell's for a long time and is not in favor of the fence.

Myers called for any other comments or questions. Hearing none the public hearing was closed. Myers called for any board discussion. Sam Payne spoke of a condition if approved, would be attached to the property owner not the property. The board took note that the hearing was published in the Frankfort Times on December 30, 2020 and notice of hearing was mailed by certificate of mailing dated December 16, 2021 to each property owner within 100 feet of the property, there is no conflict of interest and a quorum exist. Sam Payne made a motion to approve the petitioners' request, according to the finding of facts in the staff report Don Stock presented and with the condition that this approval is granted to the current owners, not the site. That if this property should be sold the variance becomes void. David Hussey seconded the motion. Upon roll call vote, three "ayes" Mike Nichols, David Hussey and Sam Payne were recorded, one "nay" Kevin Myers recorded and one abstain by Isac Chavez. Motion carried. Petition granted.

Myers called for any other business, and Stock said there will be continuing educational classes, now being scheduled for March at the airport, and it will be a joint class between the city and the county. This is something that is planned for twice a year. Also the plans down the line for the new Unified Development Ordinance, and Stock plans to have them passed by the end of this year.

With no further business before the board, the meeting was adjourned.

Susan Palmer  
Secretary of Board of Zoning Appeals

APPROVED February 10, 2021