

Board of Zoning Adjustments

April 12, 2022

5:30 PM

VICE CHAIR BRANDON WHITE, PRESIDING

The meeting was called to order at 5:30 p.m. Vice Chair Brandon White asked the Secretary to call the roll.

Members Present:

Brandon White
Barry Holder Jr.
Mitch Buchanan
Margaret Townsley

Also Present:

Edwin Logan, Attorney
Ben Judah, Franklin County Planning Supervisor
Jordan Miller, City of Frankfort Senior Planner

The first item of business was approval of the minutes of the March 8, 2021 meeting. Mr. Buchanan made a motion to approve the minutes. The motion was seconded by Ms. Townsley and passed unanimously.

Vice Chair White asked the Secretary to call the next item of business:

In accordance with Articles 4, 18, and 19 of City of Frankfort Zoning Ordinance, Frankfort Area Children's Council is requesting a Conditional Use Permit to permit a multi-family residential land use for the property located at 212 Steele Street. The property is more particularly identified as PVA Map Number 062-13-12-005.00. (City Item)

Jordan Miller, City of Frankfort Senior Planner was present and mentioned that the property is currently used as professional offices and the applicant wants to convert it to a multi-family residential property.

Mr. Miller explained that the Sunshine Center offers parenting classes for children and adult victims of abuse and neglect.

Mr. Miller stated that the applicant is under contract to purchase the property at 208 Steele Street. Once the purchase is complete they plan to move their office to the 208 Steele Street location and convert this property into a multi-family residence to house survivors of domestic violence and family abuse.

Mr. Miller stated that staff had all positive findings and suggested that the conditions on page four of the staff report be placed on the approval should the Board grant the request.

Preston Cecil was present on behalf of the applicant and stated that they agree with the Findings of Fact and staff recommended conditions for approval.

Based on the findings of fact, Mr. Holder made a motion in accordance with Articles 4, 18, and 19 of City of Frankfort Zoning Ordinance, to approve the request from Frankfort Area Children's Council for a Conditional Use Permit to permit a multi-family residential land use for the property located at 212 Steele Street with the following conditions:

1. A building permit shall be obtained for change of use and prior to construction.
2. The conditional use is permitted only at 212 Steele Street.
3. Any proposed signage shall conform to the requirements of Article 4 and 13 of the Zoning Ordinance, and an approved sign permit shall be issued by the Planning Department prior to the installation of any signage.

The motion was seconded by Mr. Buchanan and passed unanimously.

Vice Chair White asked the Secretary to call the next item of business:

In accordance with Sections 155.085, 155.105, and 155.111 of the Franklin County Code of Ordinances, Joshua Lawrence James is requesting approval of a Conditional use Permit for a Major Home Occupation to allow online firearms sales at 1245 Schenkel Lane. The property is more specifically described as Property Valuation Administrator map ID #084-00-00.006 Zone-RA (Rural Residential) (County Item)

Ben Judah, Franklin County Planning Supervisor present and mentioned that this request is for a major home occupation to allow online firearms sales and requires a Conditional Use Permit.

Mr. Judah stated that staff had all positive findings and mentioned to the Board that they had granted similar request in the past.

Mr. Judah stated that staff recommends approval with the conditions outlined in the staff report.

Mr. Holder asked if customers would be going to the home. Mr. Judah replied that they would not.

The applicant Joshua James was present and stated that he had seen the staff report and agreed with the conditions when asked by Mr. White.

Based on the findings of fact, Mr. Buchanan made a motion in accordance with Sections 155.085, 155.105, and 155.111 of the Franklin County Code of Ordinances, to approve the request Joshua Lawrence James for a Conditional use Permit for a Major Home Occupation to allow online firearms sales at 1245 Schenkel Lane with the following conditions:

1. That a business license is required from the County.
2. The conditional use is only permitted at 1245 Schenkel Lane.
3. The conditional use is granted only to Joshua James to allow the use of the property for online firearms sales.
4. All applicable State and Federal licenses must be obtained prior to use commencing.
5. The conditional use is not transferable and any change in ownership or use will make this approval null and void.
6. That the business will operate in compliance with all regulations that may apply from any other regulatory agency that may apply.
7. The business shall have no non-resident employees.
8. That the home Occupation shall operate in compliance with all requirements listed above in Article 155.111 Home Occupations contained within the Franklin County Zoning Ordinance otherwise this permit shall be null and void.

The motion was seconded by Ms. Townsley and passed unanimously.

Vice Chair White asked the Secretary to call the next item of business:

In accordance with Sections 155.085, 155.105, and 155.124 of the Franklin County Code of Ordinances, Not Forgotten Recovery, LLC is requesting approval of a Conditional Use Permit to allow for a Residential Recovery Facility at 505/507 Johnson Road. The property is more particularly described as Property Valuation Administrator map #076-00-00-004.00. (County Item)

Ben Judah, Franklin County Planning Supervisor was present and noted one change to the staff report on page two of the staff report under analysis # 15.15 it should say GENERAL CONDITIONAL USE.

Mr. Judah explained that in February 2022, the Franklin County Fiscal Court approved a text amendment which added the use of Residential Recovery Facility to the Franklin County Lane Use Table. A Residential Recovery Facility may be granted a conditional use by the Board of Zoning Adjustments to locate in any AG, RR, RB, PO, CL, CG, CH, IC, or IG zone. The applicant has therefore applied for a Conditional Use Permit (CUP) for the approval of a Residential Facility. The applicant proposes to have 35 – 45 clients.

Mr. Judah stated that staff had all positive findings for items A through H and recommended approval with the nine conditions outlined in the staff report.

Mr. Buchanan mentioned that the staff report says there will be no adverse affect on the surrounding properties but to him allowing fifty-five residents on the property whether it is for a recovery program, knitting or bee keeping seems like a drastic change. Mr. Judah replied that he came to his conclusion because they won't be constructing any commercial structures and the use will be contained within residential structures. Mr. Buchanan stated that when you have a residential area and you add that many people it still sounds like a drastic change.

Mr. Buchanan stated that you have a ten acre requirement and while this is a thirty-five acre farm it is pretty close to a neighborhood and a lot of acreage near the interstate. Mr. Judah stated that the Board can place additional restrictions as they see fit. He also mentioned that the 350' measurement was measured from the corner of the house to the nearest house via use of a GIS measuring tool.

Mr. Judah passed out some citizen comments received by staff and the Board took a few minutes to read over them.

Attorney Joshua Harp was present on behalf Not Forgotten Recovery as well as the applicants Dr. Mark and Melissa Deaton. Mr. Harp explained that the Deaton's went to the Franklin County Planning Office for a residential treatment facility in a residential setting. They chose a residential setting because they want there to be space that allows for gardening, small animals, etc. At that time there wasn't a residential area that permitted this use. In fact there actually wasn't a zone district that allowed this specific use at all. They learned that in the past similar programs had been permitted under something called charitable, indigent, limited care facilities. Mr. Harp stated that in looking at that definition, it didn't really fit and seemed more like a work around but the Deaton's didn't want to have to work around so they started the process a year ago and worked with the Zone Update Committee. Then they went to Fiscal Court who discussed the item multiple times and ultimately Fiscal Court approved Residential Recovery Facilities in nine different zone districts. Fiscal limited the number of beds on five acres to less to sixteen beds and required that they have ten acres for more than sixteen beds. This property has thirty-five acres.

Mr. Harp mentioned that a document has been distributed that includes a lot of mistruths and characterizes the facility as a jail and he hopes that the Board won't deny the request based on fear and mistruths. He also urged the Board not to deny a permit based on unsubstantiated objections.

Mr. Harp stated that there will be minimal impact to traffic because the residents won't be parking on the property. They will be transported via staff to and from the property.

Mr. Harp explained that this will not be a jail or incarceration setting. The Deaton's are well able to provide these services and they want to be good neighbors.

Mr. Harp urged the Board not to deny a permit based on unsubstantiated objections for the reason that a denial based upon those terms would essentially kick the proverbial can down the road. Mr. Harp stated that they have gone to great lengths to get this right even working with Fiscal Court to make sure there is a place for this type of facility in Franklin County.

Mr. Harp said that if the Board were to deny the permit based on unsubstantiated objections in the community it would set a precedent that any other application by the Deaton's or any other applicant to establish a residential recovery program can be simply overcome just by showing up and objecting.

Mr. Harp asked that the Board approve request and stated that they agree with the staff report, ask that the staff report be adopted and that the conditions be approved as well.

Dr. and Mrs. Deaton were present and Mr. Holder asked them to give more details about the treatment facility. Mr. Deaton stated that their program is a short term 30 – 90 day program for men that will focus not only on addiction and treatment but also educate the residents of the affect drugs and alcohol has on the body as well as relapse education.

Mr. Buchanan asked Dr. Deaton if he had a facility before and how do they handle walk offs. Dr. Deaton replied that he has worked at several places but this would be the first facility he owns himself. Dr. Deaton stated that it is their goal to not have walk offs but they have measures in place to safely transfer them off the property should they choose to leave the treatment facility. Dr. Deaton stated that it will not be a lockdown facility so walk offs are possible but if you focus on the individual and not treat it like a cookie cutter model you have a better chance of helping the residents.

Mr. Logan asked if he could provide is education, training and licenses and Dr. Deaton listed his credentials.

Dr. Deaton stated that he has been sober for almost fourteen years. He was an alcohol and opioid addict. He said that over the past twenty to twenty five years he has had intensive experience on both sides of the track. He stated that he is aware that someone who has never suffered from addiction would not understand what it is like for an addict.

Ms. Deaton listed her credentials as well and mentioned that she will be an approved consultant by the end of the year. She mentioned that they have owned and outpatient program for the last four or five years and they have had a 75% success rate. They work with Franklin County Drug Court and have been successful in helping others get and remain sober.

Ms. Townsley asked how resident would be referred to the facility and Dr. Deaton responded that they can get referrals from drug court or other treatment facilities, on the street families, medical doctors, hospitals, schools, and other outpatient programs that feel the patient needs more care than offered at outpatient services. Ms. Deaton stated that they have about seventeen hundred clients and of those only about ten percent have been incarcerated.

Mr. Buchanan asked what the protocol is for walk offs. Ms. Deaton replied that they will have security measures in place. There will be cameras, alarms on all exterior exits and staff to monitor participants. No one will be picked up or dropped off, they will have to make an appointment through the outpatient facility then staff will transfer them to the facility.

Reverend Peter Doddema was present and stated that he was in favor of this request. He stated that many of his parishioners are recovering addicts. Some of them are servicemen who turned to drugs and in need of major support.

Luke Ramay was present and said that he works with the Deaton's and he is in favor of the request. He mentioned that he was impressed with the number of people on both sides that showed up for this, he believes it will raise awareness and gain support.

Nicole Doddema was present and she stated that she works with the public defender's office and she works with twenty to thirty people who can utilize such a facility. Ms. Doddema also mentioned the letter with false information. She stated this is not just for inmates it is for mothers and fathers who are trying to save a loved one.

Ronald Penn was present and stated that he has lived in the area for 45 years and he is concerned about his grandchildren riding bikes out there. He described the roadway and mentioned that the house is a single family residence and not designed to house that many people. He mentioned that he has a petition signed by many of the residents who have concerns with this type of facility.

Jim Boyd was present and stated that the definition of rural residential is intended to be low density. He stated that the road is not meant for a lot of traffic and the parking on site is not adequate. He mentioned KRA that required visits from family and phone calls. He also questioned whether or not the septic system would be adequate for that number of residents.

Gwen Hibdon was present and stated that she has lived in that area her entire life. She stated that she is opposition of the request, there is the potential for increased flooding, they have a sink hole and when the river floods it pushes through sink hole and floods at least two houses. Another concern she had is EMS response time should Big Eddy Road be closed again in the future, noting that the past it was closed for three years.

Castil Williams was present and stated that he hasn't talked to anyone who was against addiction recovery, they just don't believe this is the right place for it. He mentioned that thirty-five acres is a lot but a lot of it is located in the floodplain. Mr. Williams stated that the area is really not that rural and that he counted 96 residences within one and a half miles of this property. He said the property is surrounded by water on most sides and a cliff on the other. Mr. Williams stated that he was concerned about security.

Robert McDonald was present and mentioned that this property was built in the sixties and any alterations they make will have to meet today's building code. He was concerned about the number of residents on the property. He also mentioned that the parking lot should be required to mediate run-off. He was also concerned with whether or not the septic system would be sufficient.

Mike Wells was present and mentioned that his main concern was that the residents would be court ordered and that most people take rehab over jail.

Liz Shepherd was present and stated that her property is adjacent to this property. She wanted everyone to understand that this is a for profit facility, not a non-profit. She was concerned about walk offs and safety of her family. She was also concerned that most of the residents will be jail inmates or people who were recently released from jail. Additionally she was concerned that this type of facility in the area would decrease their property values.

Clay Patrick was present and stated that the applicant has said that no inmates will live there but they were inmates before they live there. He stated these residents will live next to parents, grandparents and children. Mr. Clay was also concerned about the septic and run-off to the river. He stated that he was most concerned with the people and wants the Board to deny the request because he thinks there are more appropriate places to locate this type of facility.

Jim Charlton was present and stated that he was concerned about the septic, run-off into the subdivision and flooding of homes in the area. He stated that he drives a school bus in the area and he is most concerned about the safety of families. He stated that he had nothing against a recovery facility but doesn't think this is the appropriate area.

Mr. Harp readdressed the Board and explained that the residents are not required to be there, most of them are there on a voluntary basis. He mentioned the concerns about traffic and explained there won't be a major increase to traffic because the residents will not be driving to and from the facility. Mr. Harp stated that all the concerns with septic, parking, health and fire department will be addressed during the development process of this request as conditioned by staff.

Mr. Buchanan asked if the Board were to approve the request with the conditions would the request move forward if the applicant was not able to meet the parking or sewer requirements. Mr. Judah replied that if the Board approves the request, the conditions would apply and if they weren't able to meet any of the conditions the application would be null and void. If they were violate any of the conditions then Fiscal Court has the ability to revoke the Conditional Use Permit.

Mr. Judah mentioned that at the time of the report he had not received the requirements the Health Department might place on the septic system and he had not received them as of today but knew the applicant had received those requirements and has stated that they will do all that is required of them in order to move forward.

Mr. Buchanan made a motion to table the item so that staff can gather information from the Health and Fire Department. The motion was seconded by Ms. Townsley and passed unanimously.

There being no further business, Mr. Buchanan made a motion to adjourn. The motion was seconded by Ms. Townsley and passed unanimously. The meeting adjourned at 7:39 p.m.