



Staff Report BZA21-005-UV

Farmers Insurance Agency Use Variance

Docket BZA21-005-UV Farmers Insurance Agency Use Variance. The petitioner is requesting approval of a use variance for office use within the Medium-density Single-family and Two-family Residential District (R-3) to allow for an insurance agency. The property is located at 303 S. Main St in Whitestown. The property owner is Shawn Kirk, and the petitioner is Al Baumgartner.



Site Location

The scope of this project is to request a use variance from the Residential Development Standards and Uses listed in Section 2.3 of the Unified Development Ordinance to allow for an office (all other) use on this property for the purpose of an insurance agency. The site is located within the Legacy Core on the east side of Main Street (303 S Main St). The surrounding area is characterized by residential and general business uses.

Zoning

The site is zoned R-3. The R-3 District is “a medium-density single-family district, which could include two-family dwellings with development plan approval. Development in this district typically ranges from 1.75 to 3.00 dwelling units per acre.” Permitted uses within this district include single and two-family dwellings, government buildings, and farms



Background and History

1. There is no applicable background or history for the site in question.

Unified Development Ordinance

Section 2.2 G Uses:

USE	Use Limitation	R1	R2	R3
Education				
Colleges & Universities		SE	SE	SE
Elementary & Secondary Schools		P	P	P
Public & Religious Assembly				
All Types	7	L	L	L
COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES				
Arts, Recreation & Entertainment				
Arts, Recreation, Entertainment, Indoor	8	L-SE	L-SE	L-SE
Lodging Accommodations				
Bed & Breakfast		P-SE	P-SE	P-SE

Proposed Development

The petitioner requests a use variance for office use within the Medium-density Single-family and Two-family Residential District (R-3) to allow for an insurance agency.

The applicant has submitted materials that indicate the following:

- The existing building will be only be used as an office use (Farmers Insurance Agency;
- No exterior structural changes to the building are anticipated other than the removal of the existing garage attached to the rear of the building;
- The interior of the building would be remodeled to accommodate a few offices, file room, and customer waiting area;
- No one will be residing in the building;
- Normal business hours would be Monday- Friday 8am - 5pm.

Decision Criteria

Per the Zoning Ordinance, *Section X.C.5.a(3)* the Board of Zoning Appeals shall use the following three decision criteria, consistent with the requirements of the Indiana Code IC 36-7-4-918.5, when taking action on all variance requests:

1. The approval of the use variance will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. Th need for the use variance arises from some condition peculiar to the property involved.
4. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property seeking the variance.
5. The approval does not interfere substantially with the Comprehensive Plan.

Only upon written findings satisfying each element shall the variance be approved.

Petitioner's Proposed Findings

1. The approval of the use variance will not be injurious to the public health, safety, morals and general welfare of the community because: the activity that will go on at the site will not generate any noise, traffic, or other disruptive activity
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: the conversion to and use of the

property as an insurance agency office should have no adverse impact on the use or value of neighboring properties.

3. The need for the variance does arise from some condition peculiar to the property involved: this area is in transition but should reasonably accommodate this type of light commercial use; a use variance will be limited to the use described in this application.
4. The strict application of the terms of the zoning ordinance will result in unusual and unnecessary hardship as applied to the property for which the variances are sought because: this proposed commercial use is not permitted as a matter of right in a residential zoning district but the proposed use is consistent with other existing uses in the area.
5. The approval does not interfere substantially with the comprehensive plan: this is an area of transition, an insurance agency office is not incompatible with the existing and likely future uses in the area.

Staff Recommendation

Staff recommends the use variance be approved with the following finding of facts for the variance request:

6. The approval of the use variance will not be injurious to the public health, safety, morals and general welfare of the community because: proposed variances do not negatively impact welfare and safety of community, similar uses are allowed within the area;
7. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: variances will not change the nature and character of the property or proposed area.
8. The need for the variance does arise from some condition peculiar to the property involved: the property and building are in an area that allow for similar uses and the current building is able to accommodate this use.
9. The strict application of the terms of the zoning ordinance will result in unusual and unnecessary hardship as applied to the property for which the variances are sought because: similar uses are allowed within the area and the proposed use is consistent with existing uses.
10. The approval does not interfere substantially with the comprehensive plan: the comprehensive plan encourages businesses and office use within the legacy core overlay district and surrounding area.