



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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# BZA Staff Report

**To:** Board of Zoning Appeals Members  
**From:** Alex Getchell, Associate Planner  
**Date:** February 26, 2015  
**Re:** Cases ZB 2015-05 (V) | The Kroger Company

### REQUESTS:

**Case ZB 2015-05 (V)...The Kroger Company.** A request for development standards variances from the City of Franklin Zoning Ordinance:

- (1.) Article 3, Chapter 18 (Maximum Lot Area)
- (2.) Article 3, Chapter 18 (Maximum Lot Coverage)
- (3.) Article 7, Chapter 11 (Loading Berth)
- (4.) Article 7, Chapter 12 (Entrance Drive Separation)
- (5.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Display Windows)
- (6.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Customer Entrance)
- (7.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Detail Features)
- (8.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Recesses / Projections)
- (9.) Article 5, Chapter 4 (Gateway-Overlay – Foundation Plantings)

in the MXC: Mixed-use, Community Center zoning district and the Gateway-Overlay Zoning District. The property is located on the north side of Mallory Parkway (opposite Kohl's), west of N. Morton Street.

### PURPOSE OF STANDARD:

The "MXC", Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized businesses and institutional facilities that serve the entire Franklin-area community. This district should be used alone and in combination with other zoning districts to create areas for community shopping, entertainment, services, and public gatherings.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City's entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area's traffic management issues.

### CONSIDERATIONS:

#### Proposed Use

1. The Kroger Company has submitted Primary Plat and Site Development plans for a new 123,600 sq. ft. Kroger Marketplace store, on 11.54 acres of property on the north side of Mallory Parkway, opposite the Kohl's store, and located behind the Bob Evans Restaurant, Canary Creek Shoppes, and the Jimmy John's Restaurant. The proposal includes other smaller uses interior to the proposed Kroger Marketplace structure, including a drive-through pharmacy, a clinic, a jewelry store, and a Starbucks Coffee.

2. The Kroger Marketplace will have vehicular access on N. Morton Street, utilizing the existing drive between Jimmy John's and Canary Creek Shoppes, and three new access drives on Mallory Parkway that will align with the existing Kohls entrance drives on the opposite side of the street.
3. As of the date of this Staff Report, the proposed Primary Plat and Site Development Plans have not been reviewed by the entire Technical Review Committee; therefore, all plans are still preliminary and subject to change. Plat and Site Development approvals cannot be completed without BZA approval of the above listed development standards variances.
4. According to the City of Franklin Zoning Ordinance, Supermarkets (retail use-large scale) are defined as: Large-scale retailers of food and grocery supplies, typically also including flower shops, pharmacies, bakeries, branch banks, and other complementary and incidental uses.
5. Retail use (large scale) supermarkets, are permitted in the MXC: Mixed-use, Community Center and the MXR: Mixed-use, Regional Center zoning districts. Supermarkets are also listed as a Special Exception use in the MXD: Mixed-use Downtown Center zoning district.

**Maximum Lot Area**

6. The maximum lot area permitted in the MXC zoning district is ten (10) acres. *The petitioner is proposing to exceed this maximum by 1.54 acres, for a lot area of 11.54 acres for Lot 1 of Kroger Minor Subdivision.*
7. While the MXC zoning district limits properties to ten (10) acres, the MXR zoning district has no maximum lot area requirement.

**Maximum Lot Coverage**

8. The maximum lot coverage permitted in the MXC zoning district is 75%. *The petitioner is proposing to exceed this maximum by 13.47% for a lot coverage of 88.47%.* This area includes the structures, parking areas, sidewalks, pharmacy drive-thru, interior drives, and loading berths.

**Loading Berth**

9. According to Article 7, Chapter 11 of the City of Franklin Zoning Ordinance, all exterior loading berths for commercial and institutional uses shall be oriented to face the side or rear yards of the lot on which they are located.
10. The south property line of the proposed lot has road frontage along Mallory Parkway and is considered a front yard. *The petitioner is proposing three loading berths, located on the back of the proposed Kroger Marketplace, oriented to face the south/front yard along Mallory Parkway.*

**Entrance Drive Separation**

11. According to Article 7, Chapter 12 of the City of Franklin Zoning Ordinance, Entrance Drives shall meet the following separation requirements:
  - a. No entrance from a public street to a property used for purposes other than agriculture, single-family residential, or two-family residential shall be permitted within the distances specified in the Entrance Separation Requirements table. These distances may be increased to address traffic safety at the discretion of the City Engineer.
  - b. Measurement Standard: The distances shall be determined by measuring from the right-of-way line of any road and the curb or edge of pavement (if no curbs are present) of any entrances.
  - c. Entrance Separation Requirements Table:
    - i. Minimum Distance from another Access Point (Local Street): **100 feet**
12. The petitioner, under the advisement of Planning and Engineering Staff, is proposing to reconfigure the existing Canary Creek Cinemas entrance drive, by constructing a new entrance for the Cinemas, completely separate from the proposed Kroger property. *The separation distance between the new cinema entrance and the new west entrance for the Kroger Marketplace is proposed at 90 feet.*

### **Large Scale Retail Architectural Standards – Façade Walls**

13. According to Article 7, Chapter 19 of the City of Franklin Zoning Ordinance:

- A. Applicability: All Large Scale Retail facilities of one or more users that occupy 25,000 square feet of gross floor area (building footprint) shall meet or exceed the requirements of this chapter.
- B. Architectural Standards: The following architectural standards shall apply to Large Retail Facilities:
  - 1. Façade Walls: A “façade wall” is any exterior wall visible from a street or non-industrial property. All façade walls shall meet the following requirements:
    - a. **Display Windows:** All façade walls shall have display windows, faux windows, or decorative windows for no less than 60% of the façade wall’s horizontal length along all pedestrian walkways. *The petitioner is proposing to vary from this standard, to provide 41.74% display windows on the east façade.* The North, South, and West façade walls are not required to meet this standard.
    - b. **Entrances:** All façade walls that abut a street, public or private, shall feature at least one customer entrance. *The petitioner is requesting relief from providing a customer entrance on the south façade wall, which fronts Mallory Parkway.*
    - c. **Detail Features:** Building façade walls shall include a repeating pattern that incorporates no less than 3 of the elements listed below. At least 1 of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than 100 feet, either horizontally or vertically. *The petitioner is proposing to vary from this standard, as the proposal does not incorporate at least three of these elements on any of the four sides of the proposed structure.*
      - i. Color Change
      - ii. Texture Change
      - iii. Material Change
      - iv. Architectural Change: In the form of structural bays created through a change in plane no less than 24 inches wide such as an offset, reveal, or projecting rib.
      - v. “Story” Change: A clear delineation between each “story” of the structure provided by a consistent cornice line of varying appearance.

### **Large Scale Retail Architectural Standards – Recesses / Projections**

14. According to Article 7, Chapter 19 of the City of Franklin Zoning Ordinance:

- B. Architectural Standards: The following architectural standards shall apply to Large Retail Facilities:
  - 2. Front Façade Walls: The facade wall that fronts on a public street shall be considered the "front facade wall". If the structure fronts onto more than 2 public streets, the 2 facade walls that face the streets with the highest Thoroughfare Plan classification, shall be treated as front facades. All front facade walls shall incorporate the 3 following elements in addition to those required by 7.20(B)(1).
    - a. **Recesses / Projections:** Wall recesses / projections that are at least 20-feet long, but no more than 70-feet long and that have a relief of at least 8 inches. *The petitioner is proposing to vary from this standard on the East and South front façade walls.* The North and West façade walls are not considered front façade walls and are not required to meet this standard.

### **Foundation Plantings**

15. According to Article 5, Chapter 4 of the City of Franklin Zoning Ordinance, walkways along the facades of the building shall be concrete, shall be a minimum of 5 feet in width, and shall be separated from the building by a landscape area that is a minimum of 5 feet in width. The landscape area shall include benches and seating areas, and be planted with flowers, trees, and shrubs for a minimum of 50% of its length. *The petitioner is requesting relief from this standard, to not provide any landscape area / foundation plantings between the building and the pedestrian walkway.* This standard is only required along the East façade.

**Signage**

16. To date, the petitioner has not provided any official plans for the signage on the property for the Kroger Marketplace; therefore, staff is unable to determine if the signage shown meets the Sign Standards.

**Comprehensive Plan & Zoning Ordinance**

17. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers area intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."

18. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.

19. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.

20. The surrounding zoning and land uses are as follows:

**Surrounding Zoning:**

North: MXC, Mixed-use: Community Center  
South: MXC, Mixed-use: Community Center  
East: MXC, Mixed-use: Community Center  
West: MXC, Mixed-use: Community Center

**Surrounding Land Use:**

North: Agricultural Crop field/Vacant Commercial  
South: Kohls  
East: Bob Evans, Canary Creek Shoppes  
West: Canary Creek Cinemas

**CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:**

**(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

**DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES**

- 1. *General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.*

**Staff Finding:**

Staff finds that the approval of the proposed variances will not be injurious to the public health, safety or general welfare of the community. The requested variances from the architectural standards will have no adverse effect on the public health or general welfare. The request to not have foundation plantings is directly related to the public health and safety, as the petitioners do not want to install a landscape area immediately adjacent to the building. A landscape area of this nature would attract and provide safe harbor for rodents,

animals, and other insects, up to and possibly inside the grocery store. Staff has some concerns with the maximum lot coverage request; however, except for the foundation plantings, the petitioner has been able to provide all the plantings on the extensive list of landscaping requirements: street trees, site-interior landscaping, and parking lot perimeter landscaping. The location and separation of the entrance drives between the proposed Kroger Marketplace and the Canary Creek Cinemas is a result of conversations between the two businesses and Planning & Engineering staff; staff is in agreement that the proposed entrances are the best, and safest solution for both properties.

**2. *Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

**Staff Finding:**

Staff finds that the use and value of adjacent properties will not be affected in a substantially adverse manner. The proposed lot area and lot coverage work for and against each other; in that, without the additional 1.54 acres in lot area, the proposed Kroger Marketplace would not be able to locate on this property, and adding acreage just for the purpose of meeting the impervious surface area would push the lot area even higher. Furthermore, petitioners are proposing a 2.58 acre “Common Area,” off-site, as part of the Kroger Minor Subdivision Primary Plat. The “Common Area” will include a shared retention pond, and will have no impervious surfaces; if the shared common area (2.58 acres) was instead included on the Kroger Marketplace property, the petitioners would be at around 72% lot coverage (under the 75% maximum). Therefore, staff does not believe the approval of the proposed lot area and lot coverage will substantially affect adjacent properties in an adverse manner. Staff further finds that the proposed loading berth orientation and entrance drive separation will not have any adverse effect on adjacent properties. The loading berths would be located at the rear of the building and heavily buffered with landscaping. The proposed entrance drives will give a direct-and-separate access to both Canary Creek Cinema customers and Kroger Marketplace truck deliveries, while also aligning with the Kohl’s entrance across Mallory Parkway. Finally, while the proposed Kroger Marketplace has not fully met the architectural standards for large scale retail centers, staff believes the petitioner has designed a functional structure that meets the spirit of the ordinance (changes in color, texture, material, two-levels of windows, recesses/projections, height changes, etc.), and that there will be an overall benefit to the general vicinity.

**3. *Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

**Staff Finding:**

The strict application of the ordinance will result in a practical difficulties, as it relates to each of the requested variances. Specifically, there are practical difficulties in fitting the proposed store, required parking, entrance drives, landscaping, and sidewalks, all while maintaining at least 25% pervious surfaces on a ten acre parcel. It is not practical to require the loading berths be oriented away from Mallory Parkway, due to the need to accommodate truck traffic. Additionally, the loading berths will be heavily buffered with landscaping. There are practical difficulties in meeting the entrance drive separation distance, as the petitioners are aligning the new Kroger entrance with the Kohl’s entrance on the south side of Mallory Parkway, and there is limited area to construct a new and separate entrance for Canary Creek Cinemas. There is a practical difficulty in providing 60% of the east façade as glass or window display, due to the internal layout of the grocery store and additional uses (pharmacy, jeweler, Starbucks). It is not practical for the petitioner to add an additional customer entrance on the south façade, due to safety concerns with mixing pedestrian and vehicular traffic for the pharmacy drive through, and the security needed to monitor the additional ingress / egress point. There are practical difficulties in designing a functional grocery store of this size, that also meets all the detail features and the recesses / projection requirements. Finally, it is not practical to require the landscaping area immediately adjacent to the building, as it would attract and provide safe harbor for rodents, animals, and other insects, up to and possibly inside the grocery store.

## **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **approval** of the petitions with the following conditions:

- A. All signage provided on the property shall require separate review and approval, upon submission of the sign permit applications and associated detailed renderings.
- B. With the understanding the site plan, landscape plan and building elevations may change slightly as a result of the on-going Site Development Plan review process, the overall landscape plan and building elevations shall be essentially consistent with the landscape plan provided on February 20, 2015, and the Building elevations provided on February 12, 2015, with the exception of the signage, which has not been reviewed.
- C. Written consent from C C Cinemas, LLC for the proposed relocation of the Canary Creek Cinemas entrance drive on Mallory Parkway shall be provided to Planning Staff prior to Site Development Plan approval.