



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 22, 2016

Re: Cases ZB 2016-01 (UV & V) | Johnson County Community Corrections Center

REQUESTS:

Case ZB 2016-01 (UV & V): A request for a variance of use from the City of Franklin Zoning Ordinance, Article 3, Chapter 18, to allow a penal or correctional institution use, in the MXC: Mixed-use, Community Center zoning district, and developmental standards variances from Article 7, Chapter 10, to allow 42 parking spaces instead of 88 required, and Article 7, Chapter 16, Landscaping Standards, a request to not provide the required parking lot perimeter landscaping along Drake Road. The property is located on the northeast corner of Drake Road and Hospital Road, and is currently 1.83 acres.

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.

CONSIDERATIONS:

Proposed Use | Community Corrections Center | ZB 2016-01 (UV)

1. The Johnson County Commissioners (Petitioner) are proposing to relocate the Johnson County Community Corrections facility from the current location at 1071 Hospital Road, to property on the northeast corner of Drake Road and Hospital Road. The proposal is for a three-story structure (only two floors occupied initially), approximately 38,500 sq. ft. in size, with up to 15 employees onsite, and up to 200 “low-risk” felons living in the facility.
2. A penal or correctional institution is listed as a special exception in the following zoning districts: A (Agricultural), IN (Institutional), IBD (Industrial, Business Development), IL (Industrial, Light), and IG (Industrial, General) zoning districts. Penal or correctional institutions are not permitted in any other zoning district, including the MXC (Mixed-use: Community Center) zoning district, within which the subject property falls.
3. Johnson County Community Corrections currently operates an inmate work release program from a facility immediately adjacent to the Johnson County Jail, on approximately 44 acres of land owned by Johnson County, on the south side of Hospital Road. Johnson County continues to develop the 44 acre property as sort of a compound for law enforcement activities, including the Johnson County Jail, Juvenile Justice Center, Community Corrections, 911 Center, (Emergency) Training Facility, and a recently reconfigured and enlarged shooting range. The Johnson County Highway Department is also located on the property. See the attached Property Map.

4. Petitioner has stated there is a need to expand the existing Community Corrections work release program, to provide more beds for more qualifying inmates, and to bring rehabilitation services into the same building, to increase efficiencies with those partnering agencies and improve the quality of rehabilitative service to the inmates.
5. At a special public meeting on January 14, 2016, the Petitioner stated their desire to move Community Corrections to this site because the land was donated by Johnson Memorial Hospital for free; as a result, they “have not considered any other properties.”
6. The Petitioner stated Community Corrections needs to be located in close proximity to the Jail, due to the need for assistance from the Jail. Meals will be brought from the Jail, and at times, Community Corrections inmates need to be taken to the jail, due to fights, drug use, or other violations at the work release program.

Plan of Operation

7. See petitioner’s attached “Plan of Operation” letter [[Exhibit A](#)].
8. According to the Petitioner, at the January 14, 2016 special public meeting, inmates would reside on the second floor, and professional office space would be provided on the first and third floors. The Petitioner went on to state that the Probation Department, Pre-trial, and Alcohol & Drug would all operate from this facility.
9. According to the Petitioner, at this time, they only have short term plans in place for occupying the first floor with professional office space, the second floor for inmate housing, and no definite short-term plans for the third floor.
10. According to the Petitioner, the long-term plan for the third floor could include moving the Probation Department offices from off-site to the third floor. For the purpose of consideration of the use variance request and the developmental standards variance request (number of parking spaces), the Board should take a far-sighted approach and assume the future third floor build-out would be the highest possible intensity of use (administrative/professional office space).
11. If the third floor were built out for the Probation Department and/or other agencies (administrative and professional office space) in the future, there would be a significant increase to the intensity of use of the property, and a significant increase in number of parking spaces required, due to the doubling of office space and the additional employees working onsite.

Preliminary Site Plan

12. See the attached preliminary site plan [[Exhibit B](#)]. The preliminary site plan shows the proposed structure oriented to face Drake Road to the West, with vehicle access points proposed on Drake Road and a cross-connection drive with First Financial Bank, to the North.
13. Petitioner plans to only provide 42 of the 88 parking spaces required for the occupancy of the first and second floors, as currently proposed. If the third floor is built-out with professional office space for Probation Dept. and/or other users, an additional 52 parking spaces would be required, PLUS, parking spaces for each additional employee working onsite, and each additional business vehicle stored onsite. See items [#15-20](#) below.
14. Petitioner intends to provide all required landscaping, except for the 10 foot wide parking lot perimeter landscaping area, along Drake Road. See items [#21-26](#) below.

Parking Variance Request

15. The parking requirements outlined below only take into account the use of the first and second floor, and do not include the additional parking that would be required if the third floor was built-out.
16. Article 7, Chapter 10 of the Zoning Ordinance states “Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.”
17. According to Article 7, Chapter 10, Parking Standards:
 - A minimum of 1 off-street parking space is required for (rounded to the nearest complete space):
 - Every 250 sq.ft. of administrative or professional office space;
 - Each employee working on the largest shift
 - Every 10 inmates for which a penal or correctional institution is designed; and
 - Each business vehicle stored on-site.
 - At least one (1) space must be reserved for disabled persons for every 25 parking spaces provided.
 - Minimum parking stall size is 9’ x 18’ and must be striped.
 - Each parking space must be paved with asphalt or concrete.
18. Therefore, according to Article 7.10, the number of off-street parking spaces required for the proposed use are as follows:
 - Administrative or Professional office space (12,840 sq. ft. – 1st Floor): 51 spaces
 - Employees on largest shift (15): 15 spaces
 - Inmates penal or correctional institution designed for (200): 20 spaces
 - Business vehicles (2): 2 spaces
 - Disabled Persons spaces required: 4 spaces
 - **TOTAL SPACES REQUIRED (without 3rd Floor): 88 spaces**
 - **TOTAL SPACES PROVIDED: 42 spaces (Requesting Developmental Standards Variance)**
19. At least four (4) spaces provided must be reserved for disabled persons, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.
20. For purposes of consideration of future build-out of the facility, if the third floor is used for administrative or professional office space, according to Article 7.10, the following number of off-street parking spaces would be required for the entire facility:
 - Administrative or Professional office space (25,680 sq. ft. – 1st & 3rd Floors): 103 spaces
 - Employees on largest shift (30^{**}): 30 spaces
 - Inmates penal or correctional institution designed for (200): 20 spaces
 - Business vehicles (4^{**}): 4 spaces
 - Disabled Persons spaces required: 6 spaces
 - **TOTAL SPACES REQUIRED (with 3rd Floor^{**}): 157 spaces**
 - **TOTAL SPACES PROVIDED: 42 spaces**

****Assumption of doubling the number of proposed employees and business vehicles stored onsite**

Landscaping Variance Request

21. The landscaping provided on the preliminary site plan meets the ordinance requirements for Property Interior landscaping, Buffer Yard landscaping, and Street Trees.
22. The preliminary site plan is not detailed enough, at this point, to determine if Parking Lot Interior landscaping requirements have been met, but it is the petitioner's intent to provide them.
23. Parking Lot Perimeter Landscaping (Requesting Developmental Standards Variance):
 - Required:
 - Separation from all rights-of-way by a landscaping area a minimum of 10 feet in width;
 - 1 tree & shrub required per 80 linear feet of landscaping adjacent to right-of-way; and/or
 - A landscaped berm that is a minimum of 3 feet in height along full length of landscaped area. A minimum of 1 shrub shall be provided for every 10 linear feet of berm.
 - Provided:
 - **0 foot separation between parking lot & right-of-way of Drake Road;**
 - **No parking lot perimeter trees, shrubs or berm provided along Drake Road;**
 - Minimum required separation has been met between parking lot & Hospital Road;
 - Minimum required trees, shrubs and berm appear to be provided along Hospital Road.
24. Buffer Yards: According to Article 7.17, the following Buffer Yard standards are required:
 - A Buffer Yard Type 2 is required to separate MXC zoned properties and RSN zoned properties.
 - Buffer Yards are not required when MXC zoned properties are developed next to IN zoned properties.
 - Petitioner has met the Buffer Yard requirements for MXC zoned properties.
25. When a use variance is sought, staff typically recommends installation of Buffer Yards which are equivalent to those required of the zoning districts in which the use is primarily permitted.
26. For instance, a penal or correctional institution is primarily only permitted in industrial zoning districts, by special exception approval only; therefore, staff would STRONGLY recommend a Buffer Yard Type 3 be installed along the East property line (equivalent to Industrial adjacent to Residential), and a Buffer Yard Type 2 be installed along the South & West property lines (equivalent to Industrial adjacent to Institutional), in addition to all other landscaping required by ordinance.

Comprehensive Plan

27. 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."
28. Penal or Correctional Institutions are primarily only allowed by Special Exception approval in Industrial areas, which the Comprehensive Plan would classify as "Business Development Area," "Light Industrial," and "Manufacturing" land use areas. Penal or Correctional Institutions are also allowed by Special Exception approval in Institutional areas.
29. The 2013 Franklin Comprehensive Plan Land Use Plan speaks to the relationships and design features that should be adhered to for the land use areas mentioned in item #28:
 - Business Development Area Land Use
 - Relationships: "Due to their industrial nature, business development areas should not be located in close proximity to residential areas."
 - Design Features: "...intended for small-scale business operations"

- Light Industrial Land Use Areas
 - Relationships: “They should be separated from residential uses.”
 - Design Features: “...should be designed with large building sites, capable of accommodating large scale facilities and future expansions of those facilities.”

- Manufacturing Land Use Areas
 - Relationships: “...should not be located in close proximity to residential or commercial areas.”
 - Design Features: “...should be designed with large building sites, capable of accommodating large scale facilities.”

- Institutional Center Land Use Areas
 - Relationships: “The relationship between institutional centers and other land uses, specifically residential land uses, must both provide convenient access to the institutions and protect the surrounding areas. Specifically, residential areas should be provided with convenient sidewalk connections to the institutional centers, but must be protected from the traffic, noise, and lighting that is common for institutions. In the instances where institutional centers are located within developed areas of the City a balance must be achieved between the expansion needs of the institutions and the preservation and quality of surrounding neighborhoods. Both the expansion of the institutions and the appropriate preservation of adjacent neighborhoods should be supported by the City.”
 - Design Features: “...should be designed to be complimentary to surrounding land uses.”

Zoning Ordinance

30. 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.

31. 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.

32. According to Article 11.3: Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit use variances to a specific time period and a specific use. Use variances shall be invalid if (1) the property conforms with the Ordinance as written or (2) the variance is terminated.

Surrounding Zoning:

North: MXC, Mixed-use: Community Center
 PUD, Planned Unit Development

South: IN, Institutional

East: RSN, Residential Suburban Neighborhood
 RSN, Residential Suburban Neighborhood
 PUD, Planned Unit Development

West: IN, Institutional

Surrounding Land Use:

North: First Financial Bank
 Franklin United Methodist Community

South: Johnson County Highway Dept.
 Johnson County Community Corrections
 Franklin First Assembly of God Church
 Single-family Residential (Arbor Springs)

East: Two-family Residential (West Parke)
 City View Shoppes
 City View Apartments

West: Adult & Child Center
 Johnson Memorial Hospital

ZB 2016-01 (UV)

CRITERIA FOR DECISIONS – USE VARIANCE (PENAL OR CORRECTIONAL INSTITUTION):

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

In taking action on all use 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 use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

DECISION CRITERIA – USE VARIANCE (PENAL OR CORRECTIONAL INSTITUTION)

- 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 approval of the use variance for the proposed Community Corrections facility, on property on the northeast corner of Drake Road and Hospital Road, will be injurious to the public health, safety, and general welfare of the community. The proposed community corrections facility, combined with the administrative / professional office space, would greatly exceed the appropriate functional intensity of use for this small commercial property. Evidence of the proposed use being too intense for the property can be found in the petitioner's own request to reduce the number of parking spaces required by over 52 percent, from 88 spaces, to only 42 spaces. Furthermore, the requested deficiency in parking spaces does not include the Petitioner's plan to occupy the third floor in the future; a situation that could require nearly double the parking than is already being requested to be cut in half.

Additionally, because of the small lot size and the exorbitant size of the proposed facility and intensity of use, the appropriate buffering from adjacent uses cannot be provided onsite. Staff strongly believes Buffer Yards which are equivalent to those required of development in zoning districts where a correctional facility is primarily allowed are appropriate for this type of use and should be incorporated into the design. Without the appropriate buffering provided, the proposed use, even at a smaller scale, would be injurious to the public health and general welfare.

Finally, within approximately 45 feet of the back wall of the proposed three-story community corrections building, is a single-story duplex residence. The Zoning Ordinance and the Comprehensive Plan both speak to the incompatibility of this category of use and residential uses, and both documents are clear in recommending this type of use NOT be located in close proximity to residential uses.

In summation, when you combine the 1.) underlying incompatibility of use with properties immediately adjacent, with 2.) the exorbitant intensity of use proposed for the property, 3.) the severe deficiency of parking provided, and 4.) the inability to adequately buffer the incompatible use, staff finds there would be a substantial adverse effect on the general welfare.

- 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 the use and value of adjacent properties would be affected in a substantially adverse manner. The Comprehensive Plan and Zoning Ordinance both speak to the incompatibility of this category of use and residential uses. The proposed community corrections facility, combined with the administrative / professional office space, would greatly exceed the appropriate functional intensity of use for this small commercial property, and because of that, would substantially harm the residential properties to the east. Furthermore, an adequate buffer, as staff strongly believes is appropriate and necessary, does not exist between the proposed three-story Community Corrections facility and the adjacent single-story duplex homes.

Additionally, the severe deficiency in parking requested, even before considering the additional occupancy load of the third floor, will substantially affect the use of adjacent properties. As currently proposed, 20 spaces will be utilized by work-release inmates, 15 spaces will be used by employees, and 2 spaces for community corrections vehicles stored onsite; leaving only 5 parking spaces available for visitors of a facility that would house up to 200 inmates. With the proposed vehicular access drives and proximity to First

Financial Bank, City View Shoppes, and Adult & Child Center, these adjacent businesses would undoubtedly experience regular community corrections center visitor, employee, and work-release inmate over-flow parking on their properties. During daytime hours, the City View Shoppes parking lot is already perpetually near capacity, even with tenant space vacancies. If parking spaces at City View Shoppes are occupied by Community Corrections related persons, there would be a substantial adverse impact on the businesses in that retail strip, as potential customers would increasingly be unable to find parking spaces.

Moreover, with the occupancy of the third floor in the future, mathematically, there will be a major deficiency of parking spaces. Therefore, the petitioner's proposal is overwhelmingly too large and too intense of a use for this small commercial property, and as a result, all adjacent properties would suffer substantially.

3. *Peculiar Situation: The need for the variance (arises or does not arise) from some condition peculiar to the property involved.*

Staff Finding:

Staff finds the need for the variance does not arise from a condition or situation peculiar to the property. The property is zoned for a range of commercial uses, and numerous types of small-to-medium sized uses could develop on the property, without the need for a use variance or developmental standards variance. Examples of such permitted uses include: administrative / professional / government offices, medical / dental office, library, bank, bakery, deli, flower shop, and more. While the property is relatively close to the Johnson County Jail and existing Community Corrections center, there is nothing peculiar about the property in question, that prevents or discourages permitted uses from developing, other than the petitioner currently owns it.

4. *Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.*

Staff Finding:

Staff finds that the strict application of the terms of the Ordinance will not result in an unnecessary hardship, as the property is of an appropriate size and location to support a small-to-medium sized commercial / institutional / public use, as permitted by the MXC (Mixed-use: Community Center) zoning district.

5. *Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.*

Staff Finding:

The granting of use variance would substantially interfere with the Comprehensive Plan. The Comprehensive Plan Land Use Plan and Official Zoning Map indicate penal or correctional institutions are primarily only allowed in Industrial areas, which the Comprehensive Plan Land Use Plan classifies as "Business Development Area," "Light Industrial," "Manufacturing," and "Institutional" land use areas. In all cases, the Comprehensive Plan is clear that this category of development be separated from residential areas. In dealing with expansions to Institutional centers, the Comprehensive Plan is careful to articulate that a balance must be achieved between the expansion needs of the institutions and the preservation and quality of surrounding neighborhoods. A high intensity use, such as the proposed community corrections center, which would essentially be as close to a neighboring two-family home as it would be tall, contradicts the Comprehensive Plan.

STAFF RECOMMENDATION – USE VARIANCE

Based on the written findings above, staff recommends **denial** of the Use Variance petition.

ZB 2016-01 (V)

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCES:

(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:

The approval of the variances will be injurious to the public health, safety, morals or general welfare of the community. The Petitioners are only able to provide 48 percent of the parking required for the occupancy of the first and second floor of the facility; when the third floor is developed, as tentatively planned, nearly double, or more of the parking could be required for the facility, even though no additional parking can be provided onsite. The severe deficiency in parking will lead to neighboring parking lots (First Financial Bank, City View Shoppes, and Adult & Child) being used by persons associated with the proposed Community Corrections Center, and preventing potential patrons of those businesses from being able to park.

As it relates to the requested parking lot perimeter landscaping variance, staff is strongly in favor of a Buffer Yard Type 2 being installed, in addition to the required parking lot perimeter landscaping the petitioner seeks to remove completely. The parking lot perimeter landscaping is appropriate and necessary to buffer the neighboring uses and public sidewalk from the high intensity use of the subject property and the interior drive which will likely have significant traffic volumes, with 200 inmates, 15+ employees, and uncounted visitors and deliveries each day.

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 further finds that the use and value of the adjacent property will be affected in a substantially adverse manner, as the severe deficiency in parking would result in a substantial increase in demand for parking in adjacent business parking lots. A situation that would severely harm businesses in the area.

The lack of parking lot perimeter landscaping along Drake Road will not substantially effect the use or value of Johnson Memorial Hospital or the Adult & Child Center.

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 not result in a practical difficulty, as the situation is self-imposed. The petitioner is proposing a high intensity use on a small commercial property that cannot support it. The proposed use is simply too immense for the property, which is evident by the petitioner's own request to reduce the parking by more than 52 percent, and cut the parking by nearly 75 percent if we consider the future occupancy of the third floor of the facility. Both the parking situation and the parking lot perimeter landscaping requests are self-imposed situations, as the petitioner is simply proposing a use too immense for the property.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **denial** of the development standards variance petitions.