



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: March 31, 2016
Re: Cases ZB 2016-05 (V) | IN Franklin Morton, LLC

REQUESTS:

Case ZB 2016-05 (V)...IN Franklin Morton, LLC. A request for consideration of a development standards variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 18, to exceed the 75 percent Maximum Lot Coverage requirement, and Article 7, Chapter 16, Landscaping Standards, in the MXC: Mixed-use, Community Center zoning district and the Gateway-Overlay Zoning District. The property is located northwest of the intersection of Mallory Pkwy and N. Morton Street, immediately north of the new Kroger Marketplace under construction.

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 Petitioner has submitted Primary Plat Replat and Site Development plans for a new 86,000 sq. ft., six-tenant retail strip center on 8.14 acres of property immediately north of the new Kroger Marketplace under construction, on the west side of N. Morton Street, and located behind the Sherwin Williams store, Meineke Car Care Center, Arby’s Restaurant, and PNC Bank. [[Exhibit A: Dimension Plan 3/17/16](#)]
2. The petitioner is also proposing a 6,055 sq. ft. standalone retail space, on a separate 0.55 acre lot, directly behind the Arby’s. No variance requests have been submitted for this smaller development, but it will share the parking lot with the 86,000 sq. ft. facility.
3. The proposed retail center will have vehicular access, via easements across the Kroger property, from N. Morton Street, utilizing the existing drive between Jimmy John’s and Canary Creek Shoppes, and the new access drives on Mallory Parkway.
4. 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. Site Development approvals cannot be completed without BZA approval of the above listed development standards variances.

5. According to the City of Franklin Zoning Ordinance, Shopping Malls (retail use-large scale) are defined as: A shopping center where numerous stores front on a pedestrian way that may be enclosed or open.
6. Retail use (large scale) shopping malls, are permitted in the MXC: Mixed-use, Community Center and the MXR: Mixed-use, Regional Center zoning districts. Shopping malls are also listed as a Special Exception use in the MXD: Mixed-use, Downtown Center zoning district.

Maximum Lot Coverage (Requesting Developmental Standards Variance)

7. The maximum lot coverage permitted in the MXC zoning district is 75%. *The petitioner is proposing to exceed this maximum by 11.3% for a lot coverage of 86.3%.* This area includes the structures, parking areas, sidewalks, interior drives, and loading berths.
8. Petitioner is proposing 86,000 sq. ft. facility, with associated parking lot and interior drives providing up to 417 parking spaces (397 required), and separate loading berths for each tenant located to the rear of the building.
9. Petitioner is proposing to provide all required plants for landscaping, but seeks to be allowed *only 13.7% pervious surface* on the lot.
10. When combining Lot 1 (Kroger Marketplace), Lot 2 proposed (subject property), Lot 3 proposed (small outlot), and the Common Area (retention pond), the overall development of the Kroger Subdivision Plat would have an impervious surface coverage area of 77.6 percent. Therefore, *as a whole*, the development would exceed the allowed lot coverage by 2.6 percent.

Landscaping Standards (Requesting Developmental Standards Variance)

11. At the time of BZA application deadline, it was believed the petitioner's proposal was deficient, as it relates to Article 7, Chapter 16, Property Interior Landscaping Requirements; however, after further review, staff finds the petitioner has met the standard, and therefore, a developmental standards variance is not required from this section of the Zoning Ordinance.

Comprehensive Plan & Zoning Ordinance

12. 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."
13. 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.
14. 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.

15. 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
RSN: Residential, Suburban Neighborhood

Surrounding Land Use:

North: Big Lots / Tractor Supply
South: Kroger Marketplace
East: Sherwin Williams, Arby's, PNC Bank
West: Canary Creek Cinemas
Canary Creek Estates (residential)

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 the approval of the proposed variance, as perfected by the conditions of approval below, will not be injurious to the public health, safety or general welfare of the community. Staff has concerns with the maximum lot coverage request, as it appears the petitioners have fallen short of their ability to provide additional landscaping / pervious surface areas. Based on the proposed building sizes and approximate number of employees (provided by the petitioner), 20 extra parking spaces have been designed. Staff believes providing additional pervious landscaped areas would be more beneficial to the general welfare, 365 days a year, than having additional parking spaces, which would be rarely occupied, except on the busiest few shopping days of the year. While the petitioner has been able to provide all the plantings on the extensive list of landscaping requirements, the lack of additional pervious landscaped surface area will further contribute to the excessive heat build-up, emissions, and storm-water runoff of a vast asphalt parking lot, and will be injurious to 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 that the use and value of adjacent properties will not be affected in a substantially adverse manner. When combining Lot 1 (Kroger Marketplace), Lot 2 proposed (subject property), Lot 3 proposed (small outlot), and the Common Area (retention pond), the overall development of the Kroger Subdivision Plat would have an impervious surface coverage area of 77.6 percent. As a result, the development, *as a whole*, would only exceed the allowed lot coverage by 2.6 percent. Therefore, staff finds approval would not substantially affect the use or value of adjacent properties.

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 may result in a practical difficulty. Petitioners could reduce the size of building(s), which consequently would reduce the number of parking spaces needed. A reduction in the building size and parking lot area would allow for a greater portion of the property to be left as open space. Additionally, the situation could be considered “self-imposed” and/or based on a perceived reduction of, or restriction on, economic gain, as the petitioner has stated they have included all seven tenant spaces (including Lot 3) to reduce the cost-per-square-foot of the development. Furthermore, as currently designed,

without a reduction in building size, the petitioners are only required to provide 397 parking spaces, but they submitted plans including 417 spaces. While staff understands the may Board may find a practical difficulty in developing the lot as strictly required, staff finds no practical difficulty in decreasing the impervious area by approximately 3,000 sq. ft., by utilizing 20 of the proposed parking spaces, which are not required, as landscape islands / peninsulas within the customer parking lot, instead. Even though it appears the petitioner may not be able to reach 75 percent lot coverage, the petitioner should still make every effort to be as close to the requirement as possible; utilizing the extra parking spaces as pervious landscape areas would accomplish that.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

If the Board finds sufficient evidence to approve the developmental standards variance, staff recommends the following conditions be attached to the approval:

- 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. Twenty (20) of the 417 proposed parking spaces (as shown on Sheet C203 Dated: 3/17/2016) shall instead be converted-to / utilized-as curbed landscape islands or peninsulas; each landscaped island / peninsula shall be a minimum of 300 sq. ft. in area, and shall have a minimum of 1 broad leaf / deciduous tree provided for every 300 sq. ft. of landscaped island / peninsula.