



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: September 30, 2016

Re: Cases ZB 2016-11 (UV/V) | Homeview Center of Franklin, Inc. | Parking Lot Expansion

REQUESTS:

Case ZB 2016-11 (UV/V)...Homeview Health & Rehabilitation Center Parking Lot Expansion

A request for:

- (1.) A variance of use, from Article 3, Chapter 20, to allow a parking lot as a primary use in the IN: Institutional Zoning District,

and associated developmental standards variance requests from the City of Franklin Zoning Ordinance:

- (2.) Article 7, Chapter 10 General Parking Standards (Parking spaces partially within right-of-way)
- (3.) Article 7, Chapter 10 Access/Location Requirements (Vehicles maneuvering in right-of-way)

in the IN: Institutional Zoning District. The property is located on the north side of Palmer Street, which is located on the east side of S. State Street, with a common address of 651 S. State Street.

PURPOSE OF STANDARD:

The “IN”, Institutional zoning district is intended to provide locations for large-scale public facilities, educational facilities, religious centers, and other institutions. This district is further intended to provide a set of setbacks and other standards that are responsive to the unique scale and other considerations common to these types of uses. This district is further intended to reduce land use conflicts and ensure that institutions are appropriately integrated into the community.

CONSIDERATIONS:

Proposed Use

1. Homeview Center of Franklin, Inc. (Petitioner) has submitted for Site Development Plan Review (SPR) for a building expansion on the south side of Palmer Street (PC 2016-17) on 2.942 acres, and a parking lot (PC 2016-16) on 0.567 acres, on the north side of Palmer Street. See Site & Landscape Plans [[Exhibit A](#)].
2. The variance requests associated with this case, ZB 2016-11 (UV/V), are specifically related to PC 2016-16 (SPR) for the new parking lot on the north side of Palmer Street, only.
3. ZB 2016-12 (V) specifically relates to PC 2016-17 (SPR) for the building expansion and related parking, loading, and setback variance requests for the property on the south side of Palmer Street.
4. Petitioner is proposing an expansion to their facility, which will not add any new beds, but will eliminate current parking spaces. Petitioners are proposing to relocate the lost spaces, and add even more, across Palmer Street as part of this request. See Petitioner’s Letter of Intent [[Exhibit B](#)].

5. Petitioner's current facility is bounded on the South by property owned by Indiana Masonic Home, on the East by the railroad tracks, the West by State Street, and on the North by Palmer Street. Petitioner has run out of room for development on their current property; therefore, petitioner has purchased property, including a land-swap with Johnson County Library, on the North side of Palmer Street, in order to accommodate the building expansion and the proposed parking lot on the north side of Palmer Street.

Separate Approvals Required

6. Technical Review Committee: As of the date of this report, the Site Development Plan (PC 2016-16) for the proposed parking lot expansion has been reviewed by the Technical Review Committee, with a revision letter provided by staff to the petitioner. Revisions have not yet been provided, therefore, all plans are still preliminary and subject to modification. The Site Development Plan for the proposed parking lot cannot be completed without BZA approval of the above listed use variance and developmental standards variances, or compliance with those zoning ordinance standards.
7. Board of Public Works and Safety: Petitioner is requesting portions of parking spaces to be located within the public right-of-way, and for vehicles to have to maneuver within the right-of-way to access those parking spaces; as such, those features must be approved by this Board and the Board of Public Works and Safety. *Petitioner has requested to be heard by the Board of Public Works and Safety on November 7th, 2016.*

Off-site Parking as a Primary Use

8. According to Article 7, Chapter 10 of the City of Franklin Zoning Ordinance, off-site and shared parking is allowed on another lot that is within 500 feet of the lot occupied by the use(s) for which the parking spaces are required.
9. Although off-site and shared parking is allowed, according to Article 3, Chapter 20 of the City of Franklin Zoning Ordinance, a parking lot (as a primary use) is listed as a non-permitted use on properties within the IN: Institutional zoning district.
10. A parking lot or garage (as a primary use) is listed as a permitted use in three of the four Mixed Use zoning districts: MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center). It is listed as a special exception in the MXN (Mixed Use: Neighborhood Center) zoning district. A parking lot or garage is also listed as a permitted use in all three industrial zoning districts: IBD (Industrial: Business Development), IL (Industrial: Light), and IG (Industrial: General).

Preliminary Plan

11. The petitioners have submitted a preliminary plan for the proposed parking lot, which includes seventy-two (72) parking spaces, of which, nineteen (19) are partially located within the right-of-way.
12. Petitioner has indicated they intend to meet all requirements for lighting and landscaping. Additionally, Petitioner plans to light the parking lot and provide at least a ten foot wide landscape screening along the residential property to the East/North-East (540 Palmer Street). The ten foot wide landscape screening is not required by the ordinance and was offered voluntarily by the applicant.
13. Approval of the use variance with the associated preliminary site plan would not approve or imply future approval of any potential parking, landscaping, or other developmental standard variance that may be required after full Site Development Plan review and any potential resubmittals. Approval of the use variance would simply establish the use of the property as a parking lot.

Parking Spaces within Public Right-of-Way

- 14. According to Article 7, Chapter 10 (Parking Standards), Location: No off-street parking spaces may be fully or partially located in a public right-of-way, septic field, required landscape area, or buffer yard.
- 15. *Petitioner is proposing to have portions of nineteen (19) parking spaces located within the public right-of-way. Parking spaces would be 9' x 20' in size, with approximately 12' of each of the nineteen spaces being within the public right-of-way.*

Vehicles Maneuvering within Public Right-of-Way

- 16. According to Article 7, Chapter 10, Non-Residential Parking standards, Access/Location Requirements, Access to Public Streets: Parking areas must be designed to prevent vehicles from having to back into, or maneuver in public streets (access to alleys shall be exempt from this requirement).
- 17. *The petitioner is proposing to partially locate nineteen (19) parking spaces within the public right-of-way, which will require vehicles to maneuver (back-up, turn, pivot, etc.) within the right-of-way of a public street (Palmer Street) to park.*

Comprehensive Plan & Zoning Ordinance

- 18. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as an Institutional Center. "Franklin's institutional centers are areas that include either a single dominant institution or a collection of large-scale non-profit facilities. Existing institutional centers include the Franklin Community School Corporation facilities along Eastview Drive and U.S. 31; the area of West Jefferson Street which includes Johnson Memorial Hospital, the Johnson County Fairgrounds, the Methodist Community, the Johnson County Jail facilities, Creekside Elementary School, and Custer Baker Middle School; and the State Street corridor facilities of Franklin College, the Johnson County Public Library, the Franklin Community Center, and the Indiana Masonic Home. While other institutions, such as churches and schools, are located throughout the community, institutional centers are unique due to the prominence of the institutions and their influence on surrounding areas. Institutional centers may include non-institutional land uses, such as offices, retailers, or homes. However, these non-institutional uses typically have a direct, complimentary relationship with the area's institutions."
- 19. 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.
- 20. 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.

Surrounding Zoning:

North: IN, Institutional
 South: IN, Institutional
 East: IN, Institutional
 West: PUD, Planned Unit Development

Surrounding Land Use:

North: Institutional (Franklin/JoCo Public Library)
 South: Institutional (Homeview Center)
 East: Residential (Single-family)
 West: Compass Park (Indiana Masonic Home)

CRITERIA FOR DECISIONS – USE VARIANCE:

(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

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 use variance will not be injurious to the public health, safety, or general welfare of the community, as the proposal is complementary and necessary for the petitioner's established and expanding institutional use. Furthermore, for all intents and purposes, the proposed parking lot would be a secondary or accessory use to the nursing home facility, and would not be a standalone parking lot without a specific related use. The 2013 Comprehensive Plan and the official zoning map classify the general vicinity, and the subject properties, as part of the largest institutional area within the City of Franklin. Located in close proximity are: Franklin College, Johnson County Public Library, Franklin Community Center, and the Indiana Masonic Home. Approval of a parking lot will have no deleterious 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:

Approval of the use variance will not substantially affect the use and value of the area adjacent to the properties included in the variance. The 2013 Comprehensive Plan and the Official Zoning Map designate this area for institutional use; therefore, the remaining single-family residential home on Palmer is considered a legal-non-conforming use. Non-conforming uses are encouraged to convert, in this case, from residential uses, to institutional uses. Approval of this variance, for all intents and purposes, serves to expand an institutional use, and no-more affects the use of and value of the last remaining residence, than the existing Institutional zoning district and rules for legal non-conforming uses.

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 difficulty as the petitioner is seeking to add parking spaces for their facility; however, there is no room left on their property to construct more spaces. Furthermore, for all intents and purposes, the proposed parking lot would be a secondary or accessory use to the nursing home facility, and would not be a standalone parking lot without a specific related use.

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 result in an unnecessary hardship, as the petitioner is unable to construct any additional parking spaces on the same property as the nursing home facility. Therefore, the petitioner has no other option than to construct a parking lot on a separate property as a "primary" use.

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

Staff Finding:

The granting of the use variance does not interfere with the Comprehensive Plan, as the future land use map classifies this area as Institutional Center. Converting the former non-conforming residential properties to the proposed use, which will serve the established and expanding institutional use across the street, will help achieve the goals of the future land use map.

STAFF RECOMMENDATION – USE VARIANCE

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

- a. Site Development Plan approval required prior to construction.
- b. Petitioner shall provide, and keep well-maintained, a contiguous landscape buffer between the parking lot and 540 Palmer Street, which is equal-to, or greater-than the proposed landscaping (2-Chanticleer Pear trees; 8-Emerald Arborvitea; and 9-Annabelle Hydrangea) on the Site Landscape Plan dated 8/19/2016, for as long as 540 Palmer Street exists as a residence.
- c. All parking lot lighting shall result in 0.0 footcandles at property lines of 540 Palmer Street.
- d. Petitioner shall ensure that no vehicle associated with their operation, whether an employee, visitor, or delivery vehicle, parks on the street directly in front of, nor impedes or prevents ingress/egress of 540 Palmer Street.
- e. Petitioner shall maintain viable ingress/egress for 540 Palmer Street at all times, including during construction/re-construction of the parking lot and Palmer Street.
- f. Delivery vehicles shall be prohibited from idling, on-site and within the right-of-way, overnight.
- g. Parking spaces partially within the public right-of-way of Palmer Street shall not be restricted to Homeview guests and/or employees.

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:

Staff finds the approval of the proposed development standards variances will not be injurious to the public health, safety or general welfare of the community. Palmer Street is a “dead-end” public street, within a public right-of-way. Palmer Street only provides access for two property owners, one single-family home and Homeview Health & Rehabilitation Center (Petitioner). Petitioner owns all properties adjacent to Palmer Street, except the single-family home at the East end of the street. As a result of there not being enough available land for the Petitioner’s to expand their facility, while still trying to provide the amount of parking they deem necessary, the petitioner is seeking to utilize part of the right-of-way. Petitioner is designing the proposed parking lot, albeit partially within the right-of-way, to function and conform to the zoning ordinance standards for a private off-street parking lot. Given that the only vehicle trips generated on Palmer Street, besides the Petitioner, are from a single residential home, the cars that would be parking and maneuvering in the right-of-way of Palmer Street will not create traffic back-ups, sudden traffic stops, or any other dangerous traffic incident. The proposed design and use of the right-of-way will be no more injurious to the public health and safety, than any other parking lot placed completely outside of the right-of-way.

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 no evidence that approval of the variances would affect any of the adjacent properties in a substantially adverse manner. Approval of the variances would allow visitors and employees of Homeview Health & Rehabilitation to park in designated off-street parking spaces, in a traditional parking lot manner, as opposed to overflow on-street parking along Palmer Street. The design for the parking lot includes a reconstructed “interior drive” where the roadway currently exists, which will connect to the last remaining house on Palmer Street. Other than during roadway re-construction, the adjacent property owners will not have any change to their route for ingress/egress of their property.

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 practical difficulties. The subject properties owned by Homeview Center of Franklin cannot be combined to make one contiguous property, as Palmer Street, a public right-of-way, splits the properties. It is not practical to strictly impose the standards for parking and maneuvering in the right-of-way, when the petitioner will still provide a safe and adequate roadway for all visitors of their facility, as well as, for the last remaining residence at the end of the street. Additionally, Palmer Street is a dead-end street, serving the petitioner and one residence; therefore, the vast majority of traffic generated on this street is directly to and from the petitioner’s facility. For all intents and purposes, the proposed parking lot and “interior drive” replacing the current Palmer Street will function as a typical parking lot, with an adequate roadway for two-way traffic. All development standards for parking lots will be met or exceeded with the proposed design. Additionally, the petitioner is proposing the re-construction of Palmer Street to meet City standards for roadway design. Therefore, staff finds the strict application of the terms of the ordinance will result in practical difficulties.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- a. Site Development Plan approval required prior to construction.
- b. All parking lot lighting shall result in 0.0 footcandles at property lines of 540 Palmer Street.
- c. Petitioner shall maintain viable ingress/egress for 540 Palmer Street at all times, including during construction/re-construction of the parking lot and Palmer Street.
- d. Parking spaces partially within the public right-of-way of Palmer Street shall not be restricted to Homeview guests and/or employees.