



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › [www.franklin.in.gov/planning](http://www.franklin.in.gov/planning)

# BZA Staff Report

**To:** Board of Zoning Appeals Members  
**From:** Alex Getchell, AICP, Senior Planner  
**Date:** August 30, 2019  
**Re:** Cases **ZB 2019-13 (V) | JR Promotions, LLC**

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### REQUESTS:

**Case ZB 2019-13 (V)...4386 E. 100 N.** A request for four developmental standards variances from the City of Franklin Zoning Ordinance, Article 8, Chapter 3, Permitted Non-Residential Signs, as follows:

- 1.) Maximum number of freestanding signs;
- 2.) Maximum sign area for property;
- 3.) Maximum freestanding sign size (sq. ft.);
- 4.) Maximum freestanding sign height;

in the MXN: Mixed-use, Neighborhood Center zoning district. All four requests are related to a proposed billboard sign at the subject property. The property is located at 4386 E. 100 N. (Upper Shelbyville Rd) and the proposed location for the sign is adjacent to southbound Interstate 65, approximately 330 feet north of E. 100 N. The subject property is also located in the Extraterritorial “Buffer Zone” Area, immediately adjacent to the City of Franklin Corporate Limits to the south.

### PURPOSE OF STANDARD:

The “MXN”, Mixed Use: Neighborhood Center zoning district is intended to provide convenience goods, services, and amenities within close proximity of residential areas. This district is further intended to permit the development of traditional, mixed-use neighborhood centers. This district should be protected from non-neighborhood serving land uses.

### CONSIDERATIONS:

1. JR Promotions LLC, Petitioner, is proposing a third billboard (freestanding) sign be located at the subject property of 4386 E. 100 N., which is the site of Green’s Mini Storage. [\[Exhibit A: Site Map\]](#)
2. Petitioner is not the property owner; however, petitioner is the owner of the two existing billboards located on the property. The two existing billboards are permitted on the property solely by way of a settlement agreement between the City of Franklin and American Outdoor Advertising in 2004.
3. Petitioner’s current proposal is for a third billboard sign, 35 feet in total height, and petitioner has indicated the sign area would be 672 sq. ft., which is assumed to be a standard 14’ x 48’ billboard. Details of the proposed billboard construction have not been submitted.
4. Petitioner is proposing for the sign to be located adjacent to the southbound lanes of Interstate-65, approximately 330 feet north of E. 100 N. The sign is proposed to be placed approximately 510 feet south of the current southern-most existing billboard. [\[See Exhibit B: Site Plan\]](#)
5. The mini-warehouse storage facility also has an existing freestanding sign on the property; however, a permit could not be located. Petitioner indicates its size at 184 sq. ft.

### **Removal of Sign as Condition of Variance**

6. Petitioner is proposing to permanently remove the billboard sign currently located along Interstate 65 in the Paris Estates Subdivision, Sec. 6, lot 168, and replace it at the proposed site.
7. Per IC 36-7-2-5.5, the City of Franklin, including the Board of Zoning Appeals, is prohibited from requiring the removal or alteration of a lawfully erected sign as a condition of issuing: 1.) a permit; 2.) a license; 3.) a variance, or 4.) any other order concerning land use or development; unless the owner of the sign is compensated in accordance with IC 32-24 (Eminent Domain) or has waived the right to and receipt of damages in writing.

### **Number of Freestanding Signs**

8. According to Article 8, Chapter 3, Non-Residential Permanent Signs, only one freestanding sign per parcel, with the exception of parcels over 5 acres in size with multiple street frontages, which are allowed one additional freestanding sign that does not count against the maximum total number of signs allowed.
9. The subject property is over 5 acres in size and has two street frontages (E. 100 N. and Interstate 65); therefore, the property is allowed two freestanding signs.
10. *Petitioner is requesting a variance from the maximum total number of freestanding signs allowed (2), to be permitted four (4) freestanding signs; three of which would be billboards, and one more traditional freestanding sign for the business located on-site.*

### **Maximum Sign Area for Property**

11. According to Article 8, Chapter 3, Permitted Non-Residential Sign Chart, properties in the MXN: Mixed-use, Neighborhood Center zoning district are permitted a maximum of 200 square feet of sign area.
12. A calculation of linear feet of building frontage multiplied by the MXN signage multiplier of 1.5 determines the amount of sign area permitted; 200 square feet is the maximum, regardless if the frontage results in a higher number.
13. *Petitioner is requesting a variance from the Maximum Sign Area for Property of 200 sq. ft. in the MXN: Mixed-use Neighborhood Center zoning district, to be permitted the additional billboard, in addition to the existing signage at the property.*
14. According to Article 8, Chapter 1, General Sign Standards, Double-Faced Signs: Only the face area of 1 of the 2 sides shall be considered the face area of the entire sign. However, the two faces shall be identical in face area, shall be placed back-to-back, and the maximum distance between the 2 faces shall no exceed 2 feet at any point.
15. The existing billboards allowed by settlement agreement were permitted as 672 sq. ft. each; however, the billboards are two-sided and the sign faces are greater than 2 feet apart (approximately 5 feet apart). As such, and according to the standards for double-faced signs, the existing billboards are considered to be 1344 sq. ft., each, or 2688 sq. ft. total sign area existing between the two billboards.
16. Details of the proposed billboard construction have not been submitted; therefore, it is not clear if the requirements for double-faced signs will be met.

### **Maximum Freestanding Sign Size (sq. ft.)**

17. According to Article 8, Chapter 3, Permitted Non-Residential Sign Chart, the maximum sign size for freestanding signs in the MXN: Mixed-use, Neighborhood Center zoning district 40 square feet.
18. *Petitioner is requesting a variance from the Maximum Freestanding Sign Size of 40 sq. ft. in the MXN: Mixed-use Neighborhood Center zoning district, to be permitted to construct the proposed billboard sign with 672 sq. ft.*
19. Details of the proposed billboard construction have not been submitted; therefore, it is not clear if the proposed billboard would meet the calculation requirements for a double-faced sign, or if the square footage request would need to be doubled.

### **Maximum Freestanding Sign Height**

20. According to Article 8, Chapter 3, Permitted Non-Residential Sign Chart, the maximum height for freestanding signs in the MXN: Mixed-use, Neighborhood Center zoning district 10 feet.
21. *Petitioner is requesting a variance from the Maximum Freestanding Sign Height of 10 feet in the MXN: Mixed-use Neighborhood Center zoning district, to be permitted to construct the proposed billboard sign 35'-0" in total height, as measured from grade.*

### **Surrounding Zoning:**

North:	RR, Rural Residential A, Agricultural
South:	IN, Institutional RSN: Residential, Suburban Neighborhood
East:	A, Agricultural
West:	RR, Rural Residential

### **Surrounding Land Use:**

North:	Agricultural crop fields Interstate 65
South:	Franklin Community Church Suburban Residential (Paris Estates)
East:	Interstate 65; Agriculture field Rural residential
West:	Agricultural crop fields Rural residential

### **Comprehensive Plan**

22. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Neighborhood Activity Center. "Neighborhood activity centers are intended to fill a unique role by establishing gathering spaces and/or convenience goods and services in close proximity to neighborhoods. Common uses in neighborhood activity centers may include neighborhood scale churches, schools, parks, and commercial centers. Appropriate commercial activities in neighborhood activity centers include convenience stores, cafes, coffee shops, and other providers of day-to-day convenience goods and services. Residential uses, in the form of apartments located on the upper floors of businesses, are encouraged in neighborhood activity centers."

### **Zoning Ordinance**

23. According to the City of Franklin Zoning Ordinance, Article 8, Sign Standards: the intent of this Article is to further the goals of the Comprehensive Plan; avoid the proliferation of signage; encourage signs to be compatible with the scale of buildings and the surrounding features; maintain and enhance the aesthetic environment of the City; eliminate potential hazards to motorists and pedestrians resulting from signs; and promote the health, safety, and welfare of the residents of Franklin.
24. 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.
25. 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.

## **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 variances will be injurious to the public health, safety, morals, or general welfare of the community. Approval of the proposed variances would be in contradiction with the stated intent of the sign standards and would vastly exceed the desired limitations for signage throughout the City and within the zoning district of the subject property.

- 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 approval of the proposed variances will adversely affect the use and value of adjacent property owners. Approval of the proposed variances would contribute to the proliferation of signage along Interstate 65, would result in additional signage out-of-scale with adjacent development, buildings, features and uses, and would further harm the aesthetic environment of 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:**

Staff finds the strict application of the terms of the ordinance will not result in a practical difficulty in the use of the property. Staff finds the situation is self-imposed and based on a perceived reduction of, or restriction on, economic gain. The proposed removal of the sign from Paris Estates Subdivision, Section 6, Lot 168, is not relevant to the decision criteria of adding a sign to the subject property. Furthermore, by current ordinance standards, petitioners have 2,688 sq. ft. of sign area existing on-site; which represents an excess of 1244% of the permitted sign allowance for the property. Approval of an additional 672 sq. ft. or 1344 sq. ft. would permit nearly 2000% more signage than is allowed by ordinance for the property.

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

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