



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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### BZA Staff Report

**To:** Board of Zoning Appeals Members

**From:** Alex Getchell, AICP, Senior Planner

**Date:** May 28, 2021

**Re:** Cases ZB 2021-10 (V) | Taco Bell of America, LLC | 1579 N Morton St

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#### REQUESTS:

**Case ZB 2021-10 (V)...Taco Bell of America.** A request for three Developmental Standards Variances from the City of Franklin Zoning Ordinance, 1.) Article 7, Chapter 3, Accessory Structure Standards, to be permitted to locate a dumpster enclosure in a front yard, 2.) Article 7, Chapter 16, Landscaping Planting Standards, to be permitted to plant 2 inch caliper broad lead/deciduous trees (2-1/2 inch required), and 3.) Article 7, Chapter 12, Entrance/Drive Standards, to allow 12 feet internal drive widths for drive-thru lane(s) (13 feet min. required), in the MXC: Mixed-Use, Community Center zoning district. The property is located at 1579 N Morton St, the site of the existing Taco Bell restaurant.

#### PURPOSE OF STANDARD:

The “MXC”, Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-midsized 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.

#### ZONING:

##### 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

North, South, East & West: GW-OL: Gateway Overlay District

##### Surrounding Land Use:

North: Rally’s

South: AutoZone

East: Campbell’s Insurance, Chiropractor

West: Bradley Chevrolet, Chase Bank

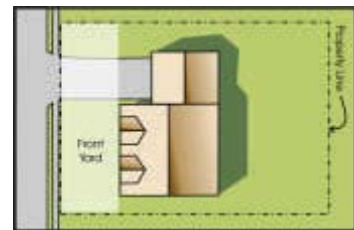
#### CONSIDERATIONS:

1. Petitioner, Taco Bell of America, LLC, is proposing to demolish and re-develop the existing Taco Bell store and site along N. Morton Street / U.S. Hwy 31. The proposed new site configuration would largely look the same as the existing site; however, petitioners propose two drive-thru lanes (one mobile order pick-up lane & one standard drive-thru lane). [See [Exhibit A: Site Plan](#) & [Exhibit B: Bldg Elevations](#)]
2. Petitioner submitted Site Development Plans for review by the Technical Review Committee; the full Technical Review Committee reviewed the plans at the May 20, 2021 meeting. Petitioner has received the official Technical Review Committee comments and is working toward full resubmittal.

3. Approval of the Site Development Plans cannot be completed without approval of the requested variances, or full compliance with the zoning ordinance.
4. Petitioner proposes to re-develop the site with the dumpster enclosure in a similar location, albeit, contrary to the accessory structure standards, for structures being located in a front yard.
5. Petitioner also requests approval to allow landscaping to be planted at a measurement size smaller than currently permitted by ordinance; they are proposing 2-inch caliper deciduous trees, instead of the 2.5-inch caliper requirement.
6. Petitioner requests approval to be permitted twelve (12) feet wide drive-thru lanes, instead of the minimum 13 feet requirement for one-way traffic, with no adjacent parking or 45-degree parking.

### **Accessory Use & Structure Standards**

7. According to Article 7, Chapter 3: Accessory Use & Structure Standards:
  1. **Accessory Structure Location:** Accessory structures shall comply with the following location requirements:
    - a. Septic Fields: No accessory structures shall be placed in any operable septic fields.
    - b. Landscaping & Buffer Areas: No accessory structure shall encroach into any required landscaped area or buffer yard.
    - c. Yard Location: **No accessory structure shall be permitted in any front yard**, or within the required side and rear yard setbacks specified by the Permitted Accessory Structures table.
  8. Variance 1.): *Petitioner requests approval to be allowed to place the dumpster enclosure on the east side of the building, which is considered a front yard, by ordinance. The dumpster enclosure would be located 29.7' from the N. Main St. right-of-way, while the main Taco Bell building would be setback 52.5' from N. Main St.*
  9. The dumpster enclosure is proposed to be 10.4' x 26.8'; a full detail of the dumpster enclosure and materials has not been provided, as of the date of this report. [See [Exhibit A: Site Plan](#)]
  10. According to the City of Franklin Zoning Ordinance, Article 13, Chapter 2, Definitions:
    - A. Front Yard: "The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line." [\[Figure 1: Front Yard\]](#)
    - B. Lot Frontage: "The horizontal distance between side lot lines where a property abuts a street."
    - C. Street, Public: "A street constructed and maintained by a unit of government within an officially deeded and accepted public right-of-way."



**Figure 1: Front Yard**

### **Landscaping Standards – Measurement Standards**

11. According to Article 7, Chapter 16, Landscaping Measurement Standards, the minimum permitted broadleaf/deciduous tree size is 2-1/2 inch diameter (a.k.a. "2-1/2 caliper"), as measured 6-inches above the root ball, at time of planting.
12. The City of Franklin Plan Commission recently forwarded a favorable recommendation for a zoning ordinance amendment to reduce the minimum broadleaf/deciduous tree size from 2-1/2 inch to 2-inch. Common Council will hold a public hearing and vote on the amendment at the June 7, 2021 meeting.
13. Variance 2: *Petitioner is requesting a variance to allow broadleaf/deciduous trees to be planted with a minimum of 2-inch caliper, consistent with the Plan Commission's proposed ordinance update. Staff is also recommending approval of the ordinance amendment. Petitioners must comply with the current ordinance, or receive variance approval, until such time as the ordinance is officially amended/adopted by Common Council.*

### **Interior Drive Standards**

14. According to Article 7, Chapter 12, Entrance/Drive Standards, one-way interior drives with no adjacent parking or 45-degree parking are required to be a minimum of 13 feet in width.
15. The City of Franklin Plan Commission recently forwarded a favorable recommendation for a zoning ordinance amendment to add “drive-thru” lanes with a minimum width of 11 feet to the Interior Drive Widths standards. Common Council will hold a public hearing and vote on the amendment at the June 7, 2021 meeting.
16. Variance 3: *Petitioner is requesting a variance to allow the drive-thru lanes to be a minimum of 12 feet in width. The proposed drive-thru widths would exceed the proposed ordinance amendment. Staff is recommending approval of the ordinance amendment. Petitioners must comply with the current ordinance, or receive variance approval, until such time as the ordinance is officially amended/adopted by Common Council.*

### **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.

### **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 three variances will not be injurious to the public health, safety, and general welfare of the community. The proposed dumpster enclosure location will be setback farther from N. Main Street than the existing dumpster enclosure and will be required to meet current ordinance standards for

materials and screening. The reduced landscaping measurement standard for broadleaf/deciduous trees and reduced drive-thru widths are consistent with, or exceed, proposed zoning ordinance amendments the City of Franklin Common Council will hear on June 7, 2021. The Plan Commission and Planning Staff have offered a favorable recommendation for the ordinance amendments; therefore, staff finds the proposed variances will not 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 the approval of the three variances will not substantially affect the use and value of the adjacent properties. The proposed dumpster enclosure location will be setback farther from N. Main Street than the existing dumpster enclosure and will be required to meet current ordinance standards for materials and screening. The reduced landscaping measurement standard for broadleaf/deciduous trees and reduced drive-thru widths are consistent with, or exceed, proposed zoning ordinance amendments the City of Franklin Common Council will hear on June 7, 2021. The Plan Commission and Planning Staff have offered a favorable recommendation for the ordinance amendments; therefore, staff finds the proposed variances will not be deleterious to the use and 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:**

Staff finds the strict application of the ordinance will result in practical difficulties related to the three variance requests. Staff finds the layout of the subject property, between two public street rights-of-way, creates a practical difficulty in locating the dumpster enclosure in an area that is not considered a front yard by ordinance. Additionally, staff finds a practical difficulty in strictly applying the terms of the ordinance as it relates to the landscaping measurement standard and the drive-thru minimum width standard, as petitioner's proposal is consistent with ordinance amendments the Plan Commission has forwarded to Common Council with favorable recommendations. Moreover, staff recommends approval of the ordinance amendments due to changing industry standards and past Board decisions. Therefore, staff finds the strict application of the ordinance will result in practical difficulties.

**STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

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