



## 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:** September 30, 2021  
**Re:** Cases ZB 2021-17 (V) | 120 Jim Black Rd

### REQUESTS:

**Case ZB 2021-17 (V)...120 Jim Black Rd.** A request by David DiCarlo, Petitioner, for a Developmental Standards Variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, Fence Standards, to allow fencing in required front yard setbacks, in the IL: Industrial, Light zoning district. The property is located at 120 Jim Black Rd.

### PURPOSE OF STANDARD:

The “IL”, Industrial: Light zoning district is intended to provide locations for light production, assembly, warehousing, research & development facilities, and similar uses. This district is intended to accommodate only industrial uses that are completely contained within structures and do not involve the outdoor storage of materials or the release of potential environmental pollutants. This district should be used to support industrial retention and expansion in Franklin.

### ZONING:

#### Surrounding Zoning:

North: IG: Industrial, General  
South: IL: Industrial, Light  
East: MXR: Mixed-use, Regional Center  
IL: Industrial, Light  
West: MXR: Mixed-use, Regional Center

#### Surrounding Land Use:

North: Crop field, Ivy Tech, Overton Carbide  
South: SR 44, Energizer  
East: Former South Central Surgery Center  
Agricultural crop field  
West: Interstate 65, Culvers, Hampton Inn

### CONSIDERATIONS:

1. The subject property, approximately 38.08 acres, was developed in 2018-2019 by Sunbeam Development Corporation, as a “Spec Building,” 556,000 sq. ft. in size.
2. An unidentified future tenant seeks to occupy the property; in order to accommodate the tenant, site development plans have been submitted to modify the site, including: adding approximately 15.90 acres to the property, creating a new semi-truck entrance, additional semi-truck & trailer parking, reconfiguring interior drives & parking areas, and replacing the surface retention pond with an underground drainage system and additional employee parking. Additionally, petitioner seeks to add a black vinyl coated chain-link fence, 8 feet in height around the south, west and north sides of the building, to enclose all truck docks/storage and interior drives beyond the guard house checkpoint.
3. Petitioner submitted Site Development Plans for review by the Technical Review Committee, related to changes to the site. [See [Exhibit A: Full Site Plans](#) & [Exhibit B: Fence Layout Plan](#)]

4. The site plans were reviewed by the full Technical Review Committee at the September 23, 2021 meeting. An official Technical Review Committee letter was provided September 27, 2021. [See [Exhibit C: PC 2021-42 TRC Letter 09/27/2021](#)]
5. Approval of the Site Development Plans with the proposed fence cannot be completed without approval of the proposed variance, or full compliance with the fence standards.

#### **Non-residential Fence, Hedge, & Wall Standards**

6. According to Article 7, Chapter 15, Part 3: These Non-residential Fence, Hedge, & Wall Standards apply to the Mixed-Use, Institutional, and Industrial zoning districts:
  - A. **Height Requirements:** Fences, hedges, and walls shall not exceed 8 feet in height and shall be prohibited in any required front yard setback.
  - B. **Prohibited Fences:** All electrified, barbed wire, razor wire, and stockade fences are prohibited on all non-farm property. Industrial uses and penal and correctional facilities shall also be exempt from this standard.
7. Variance: *Petitioner requests approval to be allowed to place an 8' black vinyl chain link fence within required front setback for a portion of the property along the west (NB Interstate-65 on-ramp).*
8. The subject property is a triple-frontage lot, with three front yards, and three required front yard setbacks:
  - A. West – along Interstate-65: 50 foot setback
  - B. North – along State Road-44: 50 foot setback
  - C. East – along Bartram Pkwy: 40 foot setback
9. According to Article 7, Chapter 15, Fence Standards, petitioner is not permitted to locate any portion of their fence within any of the front setbacks outlined above, in Item 8.
10. Petitioner proposes a black vinyl coated chain-link fence, 8 feet in height around the south, west and north sides of the building, to enclose all truck docks/storage and interior drives beyond the guard house checkpoint. [See [Exhibit A: Full Site Plans, Part 1, Pages 10 & 11 of 44 \(Sheets “SP-1” & “SP-2”\)](#)]
11. The proposed fence would encroach into the Interstate-65 North-Bound on-ramp front yard setback in the SW corner of the property for approximately 500 feet of length. [See Exhibit B: Fence Layout Plan]
12. The proposed fence would NOT encroach into the State Road 44 nor Bartram Pkwy front yard setbacks.

#### **Comprehensive Plan & Zoning Ordinance**

13. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Light Industrial. “Light industrial areas include a variety of employment and production facilities. Uses in this area may include warehouses, distribution centers, assembly facilities, technology centers, research and manufacturing facilities, professional offices. Light industrial areas are distinguished from manufacturing areas in that manufacturing areas focus on the manipulation of unfinished products and raw materials. Light industrial facilities generally do not produce emissions of light, heat, sound, vibration, or odor and are completely contained within buildings. Some limited outdoor storage of finished products may occur. Light industrial areas may also include facilities which are complimentary to their role as employment centers. Such uses would include day care centers, parks and recreation facilities, banks, dry-cleaners, and other facilities designed to provide goods and services to the employees in the area.”
14. 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.

15. 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 variance will not be injurious to the public health, safety or general welfare of the community, as petitioner's proposal represents the least encroachment practical, while still enclosing their entire facility.

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 not adversely affect the use or value of adjacent properties, as the area where the fence would encroach into the required front setbacks is along the Interstate-65 North Bound on-ramp, where adjacent properties are farther away and unimpacted by the reduced fence setback.

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 a practical difficulty in the use of the property, as petitioner could not completely enclose the interior drives, parking areas, and truck storage areas within a fence, without the fence encroaching into the front setbacks, as they have proposed. Moreover, petitioner's proposal represents the least encroachment practical, while still enclosing their entire facility.

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

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

- a. The fence must be constructed as shown on the site plan with Issue Date: September 8, 2021 and received by Planning Staff on September 9, 2021
- b. The construction of the fence shall be black vinyl coated chain link fence eight-feet in height.
- c. Chain link slats, razor-wire, and barbed-wire are prohibited from use.