



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

BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, Associate Planner

Date: August 30, 2016

Re: Cases ZB 2016-12 (V) | Homeview Center of Franklin, Inc. | 651 S. State Street

REQUESTS:

Case ZB 2016-12 (V)...Homeview Health & Rehabilitation Center. A request for development standards variances from the City of Franklin Zoning Ordinance:

- (1.) Article 3, Chapter 20 Lot Standards - Front yard setback – New Main Entrance (On Palmer St.)
- (2.) Article 3, Chapter 20 Lot Standards - Front yard setback – Dumpster Enclosure (On Palmer St.)
- (3.) Article 7, Chapter 3 Accessory Structure Location – Dumpster in front yard (On Palmer St.)
- (4.) Article 7, Chapter 3 Accessory Structure Side & Rear Setbacks (Garage/Storage Building)
- (5.) Article 7, Chapter 10 General Parking Standards (Parking spaces partially within right-of-way)
- (6.) Article 7, Chapter 10 Access/Location Requirements (Vehicles maneuvering in right-of-way)
- (7.) Article 7, Chapter 11 Loading Berth Location (In front yard & portion in right-of-way)
- (8.) Article 7, Chapter 11 Loading Berth Design & Construction (Length of loading berth)
- (9.) Article 7, Chapter 11 Loading Berth Access (Delivery vehicles maneuvering in right-of-way)
- (10.) Article 7, Chapter 12 Entrance/Drive Standards (Interior Drive located in right-of-way)
- (11.) Article 7, Chapter 12 Entrance/Drive Standards (Entrance separation distance)
- (12.) Article 7, Chapter 12 Entrance Widths (Dumpster entrance exceeds 14 feet per lane)

in the IN: Institutional Zoning District. The property is located on the east side of South State Street, on the south side of Palmer 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 2016-12 (V), are specifically related to PC 2016-17 (SPR) for the building expansion on the property on the South side of Palmer Street, only.

3. ZB 2016-11 (UV/V) specifically relates to PC 2016-16 (SPR) for the new parking lot on the North side of Palmer Street, only.
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 2016-17) for the proposed building 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: As it relates to the property South of Palmer Street, Petitioner is requesting the following to occur, partially or completely, within the public right-of-way ("ROW"):
 - Parking spaces partially located within the ROW;
 - Vehicles maneuvering within ROW to access parking spaces;
 - Interior drive partially located within ROW;
 - Loading berth partially within ROW;
 - Portions of delivery vehicles to extend into ROW during loading/unloading;
 - Delivery vehicles maneuvering within ROW to access loading berth;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.*

Lot Standards – Front Yard Setback

8. According to Article 3, Chapter 20, Institutional Lot Standards, a minimum front yard setback of 20 feet must be maintained on properties adjacent to a "Local" street; Palmer Street is classified as a "Local" street on the 2013 Comprehensive Plan Transportation Functional Classification Map.
9. Variance (1.): *Petitioner is proposing to provide 0.44' of front yard setback between the south right-of-way line of Palmer Street and a new main entrance proposed on the north side of the facility.*
10. Variance (2.): *Petitioner is proposing to provide 3.50' of front yard setback, between the south right-of-way line of Palmer Street and a new dumpster enclosure to be constructed on north side of facility.*

Accessory Structure Standards

11. According to Article 7, Chapter 3, Accessory Structure 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.
12. Variance (3.): *Petitioner is proposing to locate a new dumpster enclosure **within the front yard** along Palmer Street. The "front setback" differs from the "front yard", in that the "setback" is the required minimum distance a structure can be placed from the front property line, and the "yard" is the physical area between the foundation of the primary structure and the front property line.*

13. According to Article 7, Chapter 3, Permitted Accessory Structures Table, accessory structures related to the primary use are required to have a minimum side & rear yard setback of 25'.
14. Variance (4.): *Petitioner is proposing to locate a new maintenance/storage building at the back (East side) of the property, within 4.00' of the East property line and within 5.24' of the South property line.*

Parking & Maneuvering within Right-of-Way

15. 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.
16. Variance (5.): *Petitioner is proposing to have portions of eleven (11) parking spaces located within the public right-of-way. Six (6) of those parking spaces would be 9' x 18' in size, and five (5) handicap parking spaces 15' x 18' in size, with approximately 11.5' of each of the eleven spaces being within the public right-of-way.*
17. 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).
18. Variance (6.): *Petitioner is proposing to partially locate eleven (11) 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.*

Loading Berth (Location, Design & Access)

19. According to Article 7, Chapter 11 of the City of Franklin Zoning Ordinance:
 - B. **Location:** All required off-street loading berths shall be located on the same lot as the use to be served. They shall be designed so that no portion of a loading/unloading vehicle projects into a street, alley, or other public right-of-way.
 1. All exterior loading berths for commercial and institutional uses shall be oriented to face the side or rear yards of the lot on which they are located.
 2. No loading space may be located in any front yard or any required buffer yard.
 - C. **Design and Construction:**
 1. Size Requirements: All interior and exterior off-street loading berths for over-the-road tractor-trailers shall be a minimum of 13 feet in width and 140 feet in length including the apron. For local pick-up and delivery trucks, off-street loading berths shall be at least 12 feet in width and 60 feet in length including the apron.
 - D. **Access:** Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner that will not interfere with traffic movements. There shall be no maneuvering within any street right-of-way. In no case shall a loading berth be located in such a manner as to require loading/unloading vehicles to back into a public right-of-way or overhang adjacent property.
20. Variance (7.): *Petitioner is proposing the **Location** of the loading berth to be near the northwest portion of the facility, with the loading berth located in and oriented to face the front yard along Palmer Street, as well as, partially extending into the public right-of-way of Palmer Street.*
21. Variance (8.): *Petitioner is proposing the **Design and Construction** of the loading berth to be only 22' in length on the property, and only 37' in length between the building and proposed edge of Palmer Street.*
22. Variance (9.): *Petitioner is proposing the **Access** of the loading berth to require maneuvering within the Palmer Street right-of-way. Additionally, the access of the loading berth is in such a manner that will require loading/unloading vehicles to back into the public right-of-way of Palmer Street.*

Entrance/Drive Standards

23. According to Article 7, Chapter 12 of the City of Franklin Zoning Ordinance:

B. Location Requirements:

1. Rights-of-way: No driveway or interior drive shall be fully or partially located in a public right-of-way. With the exception of the entrance, all driveways and interior drives shall be separated from the right-of-way of all streets by a landscape area being a minimum of 10 feet in width and meeting the requirements of Chapter 7.16 Landscaping Standards.
5. Separation Requirements: No entrance from a public street to a property used for purposes other than agriculture, single-family residential, or two-family residential shall be permitted within the distances specified in the Entrance Separation Requirements table.

Entrance Separation Requirements Table:

Local Street (Palmer Street) – Minimum distance from another access point = 100 feet

C. Design Requirements:

1. Entrance Widths: No entrance shall exceed the following pavement widths at the point which they intersect the public right-of-way.
 - a. 14 feet per lane (exclusive of any medians) if from a non-residential or multi-family residential use onto any type of street
24. Variance (10.): *Petitioner is proposing an interior drive located **within the right-of-way**, beginning at the end of the existing Palmer Street, to connect to a redesigned parking lot to the East of the proposed building expansion. The interior drive would be located within the public right-of-way.*
25. Variance (11.): *Petitioner is proposing an **entrance separation** less than 100' between the loading berth and the trash/dumpster enclosure access points. The entrance drives are proposed approx. 16' apart.*
26. Variance (12.): *Petitioner is proposing an **entrance width** greater than 14' per lane for the dumpster enclosure entrance. The dumpster entrance is proposed at approx. 49' in total width at the ROW line.*

Comprehensive Plan & Zoning Ordinance

27. 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."
28. 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.

29. 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
RTN, Residential: Traditional Neighborhood
South: IN, Institutional
East: RTN, Residential: Traditional Neighborhood
RSN, Residential: Suburban Neighborhood
West: PUD, Planned Unit Development

Surrounding Land Use:

North: Proposed parking lot, Library, Single-family
Single-family Residential (across RR tracks)
South: Vacant Indiana Masonic Home land
East: Single-family Residential (across RR tracks)
Two-family Residential (across RR tracks)
West: Compass Park (Indiana Masonic Home)

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:

- (1.) Article 3, Chapter 20 Lot Standards - Front yard setback – New Main Entrance (On Palmer St.)
- (2.) Article 3, Chapter 20 Lot Standards - Front yard setback – Dumpster Enclosure (On Palmer St.)
- (3.) Article 7, Chapter 3 Accessory Structure Location – Dumpster in front yard (On Palmer St.)
- (4.) Article 7, Chapter 3 Accessory Structure Side & Rear Setbacks (Garage/Storage Building)
- (5.) Article 7, Chapter 10 General Parking Standards (Parking spaces partially within right-of-way)
- (6.) Article 7, Chapter 10 Access/Location Requirements (Vehicles maneuvering in right-of-way)
- (7.) Article 7, Chapter 11 Loading Berth Location (In front yard & portion in right-of-way)
- (8.) Article 7, Chapter 11 Loading Berth Design & Construction (Length of loading berth)
- (9.) Article 7, Chapter 11 Loading Berth Access (Delivery vehicles maneuvering in right-of-way)
- (10.) Article 7, Chapter 12 Entrance/Drive Standards (Interior Drive located in right-of-way)
- (11.) Article 7, Chapter 12 Entrance/Drive Standards (Entrance separation distance)
- (12.) Article 7, Chapter 12 Entrance Widths (Dumpster entrance exceeds 14 feet per lane)

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 not be injurious to the public health, safety or general welfare of the community. Staff finds no evidence that variances (1.), (2.), (3.), and (4.) will have any adverse effect on the general welfare of 540 Palmer Street or the overall community. Staff finds approval of variance (4.), the side and rear setbacks for the maintenance/storage accessory structure on the east side of the property, will not be injurious to the general welfare, as the adjoining property to the east (rear) is railroad right-of-way, and the adjoining property to the south is a vacant field. Staff finds variances (5.) and (6.) will result in necessary off-street parking spaces being made available, and will alleviate the future potential of visitors of Homeview parking on the shoulder or blocking the roadway of Palmer Street. Moreover, staff finds approval of variances (5.) and (6.) will have a positive impact on the general welfare.

Staff finds variances (7.), (8.), and (9.), relating to the proposed loading berth, could be injurious to the public health, safety, and general welfare of 540 Palmer Street and the overall community, if Palmer Street became partially or fully blocked by a delivery vehicle loading/unloading; therefore, staff is recommending conditions of approval, to prevent any potential detriment to the general welfare that could be caused by the approval of the loading berth variances. Staff further finds no evidence that variances (10.), (11.), and (12.) will have any adverse effect on the general welfare of 540 Palmer Street or the overall community.

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 any of the variances would affect any of the adjacent properties in a substantially adverse manner. Approval of variances (7.), (8.), and (9.), relating to the loading berth, may cause temporary inconveniences for 540 Palmer Street, if a delivery vehicle is maneuvering in the roadway as the owners or visitors of 540 Palmer Street are attempting to navigate to/from the property. However, staff does not find that those minor inconveniences rise to the level of a “substantially adverse” situation affecting the use and value of their property. Furthermore, staff is recommending conditions of approval to further reduce any potential detriment to the adjacent properties that could be caused by the approval of variances (7.) (8.) & (9.).

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 for each variance requested. In most instances, staff would likely not support a private entity utilizing so much of a public right-of-way for their private benefit, but staff sees the unique situation involved in this case and the challenges the petitioner is faced with, while trying to expand their facility and provide necessary parking. With the petitioner’s recent property acquisitions on the north side of Palmer Street and the likelihood of any future development on Palmer Street being completed by the petitioner, staff recognizes the petitioner has to approach this development and associated variances from the perspective that all the properties, including the right-of-way, are part of one overall property/development that must work and flow together. Staff is still mindful that Palmer Street remains a public street and there is another property owner who relies on Palmer Street for access to their property. Staff finds the proposed building expansion and parking lot redesign have been designed and proposed to function as if Palmer Street is merely an interior drive of a parking lot for the Homeview Health & Rehabilitation Center, while still maintaining adequate access for 540 Palmer Street.

Furthermore, the proposal meets or exceeds all requirements for an off-street parking lot, including landscaping, parking space sizes, and interior drive widths. Additionally, the petitioner is proposing to maintain two-way traffic and to meet City of Franklin public roadway construction standards for the interior drive that would replace the current Palmer Street. If the Palmer Street right-of-way was, instead an on-site interior drive, owned by the petitioner, the only variance required would be the accessory structure setbacks at the far southeast end of the property (variance #4). Therefore, given that the “dead end” Palmer Street public right-of-way benefits only one other property owner, a legal non-conforming single-family residence, and the inability of the petitioner to improve their facility in a practical manner within the constraints of the property boundaries they own and were able to acquire, staff finds it is not practical to strictly impose the requirements of the ordinance, when eleven of the twelve variances listed above (#4 being the only exception) are only required because the Palmer Street public right-of-way exists between the petitioner’s properties.

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/exterior lighting shall result in 0.0 footcandles at property lines of 540 Palmer Street.
- c. 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.
- d. 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.

- e. Parking spaces partially within the public right-of-way of Palmer Street shall not be restricted to Homeview guests and/or employees.
- f. When a delivery vehicle is present, Petitioner shall maintain at least one full open lane of traffic on Palmer Street at all times.
- g. Delivery vehicles partially or fully parking in the right-of-way shall not be on-site for greater than two (2) hours at a time.
- h. Delivery vehicles shall be prohibited from idling, on-site and within the right-of-way, overnight.
- i. Delivery vehicles shall be prohibited from loading/unloading from Palmer Street, if an adequate area is available in the loading berth or dumpster approach areas.