



## 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:** Joanna Myers, AICP, Senior Planner

**Date:** April 26, 2019

**Re:** Cases ZB 2019-06 (V) | BCCJ, LLC

---

#### REQUESTS:

##### Case ZB 2019-06 (V)...405 N. Water St | BCCJ, LLC

A request for consideration of a developmental standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, to allow a fence to be constructed within a required front yard setback along Cincinnati Street, at 405 N. Water Street, in the IBD: Industrial, Business Development zoning district.

#### PURPOSE OF STANDARD:

The “IBD”, Industrial: Business Development zoning district is intended to provide locations for small scale manufacturing, construction, production, and assembly uses, as well as other light industrial uses. This district is specifically intended to provide appropriate setbacks and standards for small-scale businesses, entrepreneurial operations, start-up businesses, and similar operations.

#### CONSIDERATIONS:

##### Project Overview

1. BCCJ, LLC, petitioner, is proposing to construct a chain link fence, with barbed/razor wire, within the required front yard setback along 200 feet of the property’s frontage with Cincinnati Street, at the property addressed 405 N. Water Street. [See [Exhibit A: Site Plan](#) & [Exhibit B: Site Photos](#)]
2. According to Article 7, Chapter 15, Non-Residential Fence, Hedge, & Wall Standards, Fences shall not exceed 8 feet in height and shall be prohibited in any required front yard setback. Industrial uses are permitted to utilize electrified, barbed wire, razor wire, and stockade fences.
3. According to Article 3, Chapter 21, Industrial: Business Development Lot Standards, the minimum required front yard setback for a property with a frontage adjacent to a Collector Street is 50 feet.
4. Petitioner is requesting approval to allow the proposed fencing to be located on the front property line for 200 feet along Cincinnati Street. [See [Exhibit A: Site Plan](#)]
5. The fence parallel to Cincinnati Street, for a distance of 70 feet west from the east property line, is proposed to be located a minimum of 50 feet north of the Cincinnati Street right-of-way.
6. The fence gate will be located within the area of fencing that is a minimum of 50 feet north of the Cincinnati Street right-of-way. This will allow vehicles to be located onsite and not impede the flow of traffic while the gate is closed.
7. The fence parallel to Water Street will be located a minimum of 50 feet from east of the right-of-way of Water Street and the remaining portions of fencing for the site will be located along all side and rear property lines, which is permitted by the Zoning Ordinance. BZA approval is not required nor requested for these portions of fencing. The request is limited to the 200 ft. section of fencing along Cincinnati Street.

8. The Johnson County Interim Report identifies the neighborhood immediately to the west as the Martin Place Historic District, which includes all of the properties along Martin Place and 348 to 502 N. Main Street.
9. The subject property was previously a portion of the Central L & M operations and has historically been used and zoned for industrial purposes.
10. The current owner has repaired and/or demolished existing buildings and has improved the overall cleanliness and maintenance of the property.
11. Historically, the residents/visitors of the residential properties located adjacent to the subject property have used the subject site as a “public” parking area. Staff is unaware if the previous owner had given consent. However, staff is aware the current owner has not provided consent for their property to be used as a parking area.
12. Public sidewalks are located along the north and south sides of Martin Place, west side of Water Street, east side of Water Street south of Cincinnati Street, and the south side of Cincinnati Street. There are currently no public sidewalks along the east side of Water Street from Cincinnati Street to Martin Place or along the north side of Cincinnati Street (frontage of the subject property).
13. Martin Place is curbed on both the north and south sides and curbing extends around the corner along the west side of Water Street to the south. The southeast portion of the intersection of Water Street and Cincinnati Street is also curbed. Curbing is not fully present along the northeast portion of the Water Street and Cincinnati Street intersection or along the east side of Water Street (frontage of subject property).
14. The City of Franklin Zoning Ordinance requires any portions of a site that are legal nonconforming and are affected by the proposed modifications to be brought into compliance with the current standards.

#### **Surrounding Zoning:**

North: RTN: Residential, Traditional Neighborhood  
 South: RTN: Residential, Traditional Neighborhood  
 IBD: Industrial, Business Development  
 East: RTN: Residential, Traditional Neighborhood  
 IBD: Industrial, Business Development  
 West: RTN: Residential, Traditional Neighborhood

#### **Surrounding Land Use:**

North: Single-family Residential  
 South: Single-family Residential  
 Central L&M Supply  
 East: Railroad & Single-family Residential  
 East: Railroad & Industrial  
 West: Single- and Multi-family Residential

#### **Comprehensive Plan**

15. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Business Development Area. “Business development areas are intended to serve as both the permanent home of small scale businesses and incubators of new local companies. Land uses in business development areas include manufacturing, light industrial operations, contractor’s offices, and products suppliers. In many instances the types of businesses in these areas are those that have both commercial and industrial qualities. The business development areas provide these uses the ability to serve customers in a setting that allows outdoor storage and the operation of heavy equipment and machinery that often are involved.”
16. Business Development Areas are “intended for small-scale business operations, the use of metal and concrete block structures is acceptable. Landscaping should be provided in the form of street trees and parking lot perimeter screening. All areas of outdoor storage should be screened from view of public streets and adjacent nonindustrial land uses. Individual building sites should be designed to accommodate a variety of business uses and should provide for limited future expansion of business facilities.”

#### **Zoning Ordinance**

17. 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.

18. 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 approval of the variance, with the proposed conditions of approval, will not be injurious to the public health, safety, morals, and general welfare, as the proposed location of the fence will not restrict the site visibility at the intersection of Water Street and Cincinnati Street and the installation of the curb and sidewalk will restrict the ability to trespass on the subject property and brings the property further into compliance with current standards.

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 that approval, with the proposed conditions of approval, will not be detrimental to the use and value of adjacent properties, as the installation of the fence as proposed and to include fence slats will assist in screening the industrial use from the existing, historic residential neighborhood.

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 result in a practical difficulty, as the triangular configuration of the site is unique and the front setback requirement for fencing results in the loss of the ability to utilize approximately 0.33 acres of an industrial lot located in the historic area of Franklin. Industrial lots in this area are smaller than in other industrial areas of the city as the area if fully developed.

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

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

- a. The wooden poles currently lying on the ground parallel to Water Street shall be removed.
- b. The fence located adjacent to Water Street shall be located no closer than 50 ft. east of the right-of-way along its entire length.

- c. Chain link fence slats shall be installed on the portion of fence located from the southeast corner of 98 N. Water Street east and then from that point south to the connection point of the fence running along Cincinnati Street.
- d. Install a minimum of a 5' public sidewalk and curb from Cincinnati Street north to tie into the existing sidewalk and curb along Martin Place.
- e. The public sidewalk shall be ADA compliant, which includes an ADA compliant curb ramp (with detectable warning) at the intersection of Cincinnati and Water streets.
- f. The design, location, and construction of the public sidewalk and curb shall be reviewed and approved by the City Engineer prior to installation.
- g. The ground surface area between the public sidewalk and the fence (minimum distance of 50 ft.) shall be converted to topsoil and grass.