

FINDINGS OF FACT (Main St. Front Yard Setback – Article 3 Chapter 18)

**Petition for Variance from Development Standards
Take 5 Indiana, LLC**

Take 5 Indiana, LLC (Petitioner) is the prospective purchaser of real estate located at 1795 N Morton St. The parcel is located on the East side of N Morton St., at the intersection of N Morton St., Schoolhouse Rd. and N Main St. The Parcel ID is 41-08-10-044-107.000-009 (the Property) and is currently zoned MXC. The Petitioner seeks to build and operate a Take 5 Oil Change (Take 5) facility on the Property. Per Article 3, Chapter 18 of the Franklin Zoning Ordinance (Ordinance), the minimum front yard primary structure setback is 50 ft. when adjacent to an Arterial Street. Per the Ordinance, Main St. is an Arterial Street, so a minimum 50 ft. setback is required. The proposed site plan calls for the primary structure to be setback 9 ft. from N Morton. Petitioner seeks a variance from development standards in order to develop a site plan with a front yard setback of 9.5 ft. in order to utilize the Property to operate a Take 5.

The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. At its widest point, the property is 93' wide. A 50 ft. setback off Main St. would render the Property unable to be developed. Furthermore, the site plan as proposed, provides for a larger setback than the existing building on the Property. Therefore, given that the setbacks would render the site unable to be developed, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Main St. Front Yard Setback – Article 3 Chapter 18)

Petition for Variance from Development Standards
Take 5 Indiana, LLC

Take 5 Indiana, LLC (Petitioner) is the prospective purchaser of real estate located at 1795 N Morton St. The parcel is located on the East side of N Morton St., at the intersection of N Morton St., Schoolhouse Rd. and N Main St. The Parcel ID is 41-08-10-044-107.000-009 (the Property) and is currently zoned MXC. The Petitioner seeks to build and operate a Take 5 Oil Change (Take 5) facility on the Property. Per Article 3, Chapter 18 of the Franklin Zoning Ordinance (Ordinance), the minimum front yard primary structure setback is 50 ft. when adjacent to an Arterial Street. Per the Ordinance, Main St. is an Arterial Street, so a minimum 50 ft. setback is required. The proposed site plan calls for the dumpster enclosure to be setback 14 ft. from N Morton. Petitioner seeks a variance from development standards in order to develop a site plan with the dumpster enclosure set back 14 ft. from the front yard in order to utilize the Property to operate a Take 5.

The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. At its widest point, the property is 93' wide. A 50 ft. setback off Main St. would render the Property unable to be developed. Furthermore, the site plan calls for the dumpster enclosure to be setback more than the primary structure, which is setback 9' from Main St. Therefore, given that the setbacks would render the site unable to be developed, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (N Morton St. Front Yard Setback – Article 3 Chapter 18)

Petition for Variance from Development Standards
Take 5 Indiana, LLC

Take 5 Indiana, LLC (Petitioner) is the prospective purchaser of real estate located at 1795 N Morton St. The parcel is located on the East side of N Morton St., at the intersection of N Morton St., Schoolhouse Rd. and N Main St. The Parcel ID is 41-08-10-044-107.000-009 (the Property) and is currently zoned MXC. The Petitioner seeks to build and operate a Take 5 Oil Change (Take 5) facility on the Property. Per Article 3, Chapter 18 of the Franklin Zoning Ordinance (Ordinance), the minimum front yard primary structure setback is 50 ft. when adjacent to an Arterial Street. Per the Ordinance, N Morton St. is an Arterial Street, so a minimum 50 ft. setback is required. The proposed site plan calls for the primary structure to be setback 12.3 ft. from N Morton. Petitioner seeks a variance from development standards in order to develop a site plan with a front yard setback of 12.3 ft. in order to utilize the Property to operate a Take 5.

The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. At its widest point, the property is 93' wide. A 50 ft. setback off N Morton St. would render the Property unable to be developed. Furthermore, the site plan as proposed, provides for a larger setback than the existing building on the Property. Therefore, given that the setbacks would render the site unable to be developed, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Main Entrance – Article 5 Chapter 4.C.1.d)

Petition for Variance from Development Standards
Take 5 Indiana, LLC

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The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Take 5 is a drive-thru oil change in which customers stay in their car for the duration of the oil change (about 9 minutes). There is no customer waiting room or retail space. As a result, the building does not have a main entrance. The customers enter through the overhead doors into the bays on the South side of the building and exit on the North. Therefore, the strict application of the Ordinance requiring the main entrance face a public street results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Entry Features – Article 5 Chapter 4.C.1.e)

**Petition for Variance from Development Standards
Take 5 Indiana, LLC**

Take 5 Indiana, LLC (Petitioner) is the prospective purchaser of real estate located at 1795 N Morton St. The parcel is located on the East side of N Morton St., at the intersection of N Morton St., Schoolhouse Rd. and N Main St. The Parcel ID is 41-08-10-044-107.000-009 (the Property) and is currently zoned MXC. The Petitioner seeks to build and operate a Take 5 Oil Change (Take 5) facility on the Property. Per Article 5, Chapter 4.C.1.e of the Franklin Zoning Ordinance (Ordinance), certain entry features shall be provided at the main entrance to the primary structure. The proposed building does not have a main entrance, as it is a drive-thru oil change. Therefore, no entry features are provided. Petitioner seeks a variance from development standards in order to construct a primary building without main entrance features in order to utilize the Property to operate a Take 5.

The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Take 5 is a drive-thru oil change in which customers stay in their car for the duration of the oil change (about 9 minutes). There is no customer waiting room or retail space. As a result, the building does not have a main entrance or main entrance features. The customers enter through the overhead doors into the bays on the South side of the building and exit on the North. Therefore, the strict application of the Ordinance requiring the main entrance face a public street results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Sidewalks – Article 5 Chapter 4.C.2.a)

Petition for Variance from Development Standards Take 5 Indiana, LLC

Take 5 Indiana, LLC (Petitioner) is the prospective purchaser of real estate located at 1795 N Morton St. The parcel is located on the East side of N Morton St., at the intersection of N Morton St., Schoolhouse Rd. and N Main St. The Parcel ID is 41-08-10-044-107.000-009 (the Property) and is currently zoned MXC. The Petitioner seeks to build and operate a Take 5 Oil Change (Take 5) facility on the Property. Per Article 5, Chapter 4.C.2.a of the Franklin Zoning Ordinance (Ordinance), sidewalks shall be provided along all sides of the lot. The proposed site plan does not call for the addition of sidewalks. Petitioner seeks a variance from development standards in order to develop a site plan without sidewalks in order to utilize the Property to operate a Take 5.

The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. The primary difficulty in providing sidewalks in the site plan is that it makes it even more difficult to comply with other requirements of the Ordinance, such as setbacks, parking, landscaping, etc. In addition, it is not practical to place sidewalks along N Morton St., Main St. or Schoolhouse Rd. There are currently no other sidewalks on N Morton St., and the adjoining properties on Main St. do not have sidewalks to connect. The neighboring property owner on Schoolhouse Rd. does have a sidewalk but adding a sidewalk on the Property along Schoolhouse Rd. would only connect to N Morton St., on which there are no sidewalks. Therefore, given the difficulty and lack of practicality of providing sidewalks, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Pedestrian Walkways – Article 5 Chapter 4.C.2.b)

Petition for Variance from Development Standards
Take 5 Indiana, LLC

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The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Take 5 is a drive-thru oil change in which customers stay in their car for the duration of the service. As a result, there is no main customer entrance. Further, the proposed site plan does not call for sidewalks. As there is no main customer entrance or sidewalks, no pedestrian walkways are provided. Therefore, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Parking Spaces – Article 7 Chapter 10)

Petition for Variance from Development Standards Take 5 Indiana, LLC

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The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Adding one more parking space would make it even more difficult to comply with other standards of the ordinance, such as landscaping requirements, right of ways, etc. In addition, given the nature of the drive-thru model, there is no need for customer parking, as all customers stay in their cars through the duration of the oil change. Therefore, parking spaces are only needed for employees. The 9 parking spaces are plenty for the maximum of 5 employees working at one time. Therefore, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Entrance Widths – Article 7 Chapter 12.C.1)

Petition for Variance from Development Standards Take 5 Indiana, LLC

Take 5 Indiana, LLC (Petitioner) is the prospective purchaser of real estate located at 1795 N Morton St. The parcel is located on the East side of N Morton St., at the intersection of N Morton St., Schoolhouse Rd. and N Main St. The Parcel ID is 41-08-10-044-107.000-009 (the Property) and is currently zoned MXC. The Petitioner seeks to build and operate a Take 5 Oil Change (Take 5) facility on the Property. Per Article 7, Chapter 12.C.1 of the Franklin Zoning Ordinance (Ordinance), no entrance shall exceed 14 ft per lane (28 ft. per. In/Out). The two entrances on Main St. are 47.3 ft. and 54.3 ft wide. Petitioner seeks a variance from development standards in order to develop a site plan with such entrance widths along Main St. in order to utilize the Property to operate a Take 5.

The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Given the small size (0.33 acres) and unusual shape of the parcel, wider entrances are required to allow necessary turning radii for customers and employees to enter and exit the Property. There are sharp turns entering the bays from Main St. on the South side of the Property, as well as exiting the bays back onto Main St. on the North side of the Property. Strictly applying the 28 ft. width, would make it difficult for customers to enter the bays from Main St. and exit the bays back onto Main St. Therefore, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Sight Visibility Standards – Article 7 Chapter 13)

Petition for Variance from Development Standards Take 5 Indiana, LLC

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The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Given the small size (0.33 acres) and unusual shape of the parcel, it is not possible meet the sight visibility standards, while also meeting the landscape requirements. However, the proposed landscape plan with the lack of compliance with the sight visibility standards does NOT block the view of oncoming traffic or customers/employees entering/exiting. Therefore, the strict application of the Ordinance results in a practical difficulty in the use of the property.

FINDINGS OF FACT (Parking Lot Perimeter Landscaping – Article 7 Chapter 16.E)

Petition for Variance from Development Standards Take 5 Indiana, LLC

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The below is provided as evidence supporting the request for a variance from development standards.

1. *General Welfare:* The approval of requested variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Take 5 is a national brand with upwards of 350 centers nationwide. Utmost importance is placed on environmental sustainability and management. The oil change center will be an aesthetically pleasing building and will provide a high-quality service to the residents of Franklin.
2. *Adjacent Property:* The use and value of the area adjacent to the property included in the variance will NOT be affected in a substantially adverse manner. The Property and most adjacent properties along N Morton St are currently zoned commercial with existing operating businesses. In fact, a Take 5 will have a positive impact on adjacent property owners, as it will result in architectural upgrades. The Property's current building will be removed, and a new Take 5 facility constructed. Given the nature of business operations on the adjacent properties, Take 5 will attract new potential customers to the area, which will result in advantageous retail synergies for adjacent property owners.
3. *Practical Difficulty:* The strict application of the terms of the Ordinance WILL result in a practical difficulty in the use of the property. Given the small size (0.33 acres) and unusual shape of the parcel, a portion of the driveway along Main St. is closer than 10 ft. to the right-of-way. The less than 10 ft. on Main St. is necessary to allow customers to exit the bays and exit the Property. Strictly applying the 10 ft. barrier, would not allow customers to exit the bays and pull out onto Main St. Thus, the 10 ft. landscaped area nor 3 ft. berm is provided. In addition, there is no landscaped area between the parking spaces and the right-of-way on N Morton St. As shown in the site plan, there is no space for any type of landscaping. Again, this is driven by the narrow nature of the Property. Therefore, the strict application of the Ordinance results in a practical difficulty in the use of the property.