



## 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:** August 26, 2019

**Re:** Cases ZB 2019-11 (V) | 1073 W Jefferson St | Indiana Members Credit Union

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### REQUESTS:

**Case ZB 2019-11 (V)...Indiana Members Credit Union.** A request for two developmental standards variances from the City of Franklin Zoning Ordinance, as follows:

- 1.) Article 3, Chapter 18, to allow a primary structure to encroach into front setback along W Jefferson St (50' required; 26.6' requested); and
- 2.) Article 7, Chapter 16, to not be required to provide 10' parking lot separation and associated landscaping for a portion of interior drive (drive-through exit) along W Jefferson St;

in the MXC: Mixed-use, Community Center zoning district. The property is located at 1073 W Jefferson St.

### PURPOSE OF STANDARD:

The "MXC", Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized 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.

### CONSIDERATIONS:

1. Indiana Members Credit Union, petitioner, is proposing a new credit union on the former site of First Financial Bank, located on the southeast corner of W Jefferson St and Drake Rd, at 1073 W Jefferson St.
2. Petitioner has submitted Site Development Plans for the proposed business. [See [Exhibit A: Site Plans](#)]
3. The proposed Site Development Plans have been reviewed by the entire Technical Review Committee, with comments provided and revisions submitted. Site Development Plan approval cannot be completed without BZA approval of the above listed variances, or compliance with all development standards.
4. Petitioner submitted Findings of Fact for each variance requested [See [Exhibit B: Petitioner Findings](#)]

#### Front Setback

5. According to Article 3, Chapter 18, Minimum Front Setback table in the MXC: Mixed-use Community Center zoning district, Structures are not permitted closer than 50 feet to the right-of-way when adjacent to an arterial street.
6. According to the City of Franklin Comprehensive Plan Thoroughfare Plan, both W Jefferson St is designated as an arterial street.

7. Variance (1.): *Petitioner is requesting a variance from the minimum front setback of 50 feet in the MXC: Mixed-use Community Center zoning district, to be permitted to construct the primary structure 26.6 feet from the right-of-way of W Jefferson St.*
8. The recently demolished former First Financial Bank (originally Irwin Union Bank) structure on the site was 12.3 feet from the W Jefferson St right-of-way (measured from closest foundation & closest point of drive-through canopy). *Petitioners are proposing an increased setback along W. Jefferson St.*

#### **Parking Lot Perimeter Landscaping Separation**

9. According to Article 7, Chapter 16, all parking lots, including parking spaces, interior drives, and loading/unloading areas, shall be separated from all street rights-of-way by a landscape area that is a minimum of 10 feet in width. The landscape area must also be planted with either of the following options, or a combination of both:
  - Trees & Shrubs: a minimum of 1 tree & 1 shrub for every 80 linear feet of landscape area; and/or
  - Landscape Berm: a berm a minimum of 3 feet in height along the length of the landscape area, plus 1 shrub for every 10 feet of landscape berm.
10. Variance (2.): *Petitioner is requesting a variance to not be required to provide the 10' parking lot separation and associated landscaping for a portion of interior drive (drive through exit) along W Jefferson St.*

#### **Surrounding Zoning:**

North:	PUD: Planned Unit Development
South:	MXC: Mixed-use, Community Center
East:	MXC: Mixed-use, Community Center
West:	IN: Institutional

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

North: Otterbein (United Methodist Home)
South: Vacant
East: City View Shoppes
West: Johnson Memorial Hospital

#### **Comprehensive Plan**

11. 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."

#### **Zoning Ordinance**

12. 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.
13. 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 variance to allow the primary structure to encroach into the front yard setback of W Jefferson St will not be injurious to the general welfare. The original structure was setback closer than the proposed, and had existed in that manner going back decades to when it was originally developed as the Irwin Union Bank; therefore, the encroachment into the front setback would be reducing the non-conformity and will not be injurious to the general welfare going forward. Staff finds the approval of the variance to not require a 10 foot landscaping separation between a portion of the drive-through exit and the right-of-way of W Jefferson St will not be injurious to the general welfare. The existing pavement extends 21 feet into the right-of-way of W Jefferson St and will be completely removed and replaced with a grassy area in the right-of-way, and on-site with new pavement and a 6 inch curb bounding the new interior drive. Approval of the proposed variance will be a significant reduction in non-conformity and 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 variance to allow the primary structure to encroach into the front yard setback of W Jefferson St will not have a substantially adverse effect on the use and value of adjacent properties. The original structure was setback closer than the proposed, and had existed in that manner going back decades to when it was originally developed as the Irwin Union Bank; therefore, the encroachment into the front setback would be reducing the non-conformity and will not affect adjacent properties. Staff finds the approval of the variance to not require a 10 foot landscaping separation between a portion of the drive-through exit and the right-of-way of W Jefferson St will not have a substantially adverse effect on any adjacent properties. The existing nonconforming parking lot pavement extends 21 feet into the right-of-way of W Jefferson St and will be completely removed and replaced with a grassy area in the right-of-way, and on-site with new pavement and a 6 inch curb bounding the new interior drive. Approval of the proposed variance will be a significant reduction in non-conformity and 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 terms of the ordinance will result in practical difficulties in the use of the property. Petitioners are proposing to repurpose the lot and reuse the original development configuration, while reducing nonconformities, by increasing the setback of the building and removing the drive-through encroachment in the right-of-way. The new structure will be setback 26.6 feet from the rights-of-way, instead of the original 12.3 feet, and the drive-through will be completely out of the right-of-way. Requiring a greater building setback and larger landscape area would create practical difficulties in reusing the existing development configuration and features on site.

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

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

- a. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, Site Development Plan approval, Improvement Location Permits, and compliance with all building, fire, and health codes.